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THE STATE LAST:

A STUDY

— OF —

DOCTOR BOUQUILLON'S PAMPHLET:

Education: To whom does it belong?

With a Supplement
REVIEWING
DR. BOUQUILLON'S REJOINDER TO CRITICS.

— BY —

REV. JAMES CONWAY, S. J.,

CANISIUS COLLEGE, BUFFALO, N. Y.

1892.

FR. PUSTET,

Printer to the Holy Apostolic See and the S. Congregation of Rites.

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PREFACE.

The study of which these pages contain the result was begun immediately after the publication of Dr. Bouquillon's pamphlet. The author, having himself once travelled the same ground, was naturally eager to compare notes with the learned Doctor. He had no intention, however, of rushing into print, especially as he thought he had already said all he had to say on the matter. But believing, as he read, that certain authors with whose teaching he was familiar were misconceived and misconstrued, and judging that some of the leading principles laid down were either false or misleading, and that the whole tenor of the brochure was likely rather to prove detrimental than advantageous to the cause of Catholic education in this country he did finally come to the determination to prepare a review of Dr. Bouquillon's teaching for the press.

His work was well nigh finished when, after the conference of the Archbishops held in St. Louis at the beginning of December last, he was given to understand from a reliable source that discussion—at least in the form of personal controversy—was no longer desirable. So he cheerfully shelved his work and devoted himself to more peaceful and congenial occupations.

Seeing, however, that the controversy was not only continued, but even waxed fiercer than ever, after the St. Louis conference, and that Dr. Bouquillon's doctrine was not only publicly defended, but freely cited in favor of the theory and practice of state education, the author soon came to the conclusion that discussion was not only not undesirable,

but plainly invited, and even necessary. He, therefore, readily yielded to the many kindly solicitations brought to bear upon him by his friends, took his notes again from the shelf, and arranged them for the press. It was not for some weeks, however, that his local superiors, who were naturallly opposed to all personal controversy, could prevail upon themselves to give the necessary permission for the publication.

After he had sent his study of Dr. Bouquillon's first pamphlet to the printers, the "*Rejoinder to Critics*" reached him. Though this second publication did not strictly concern him, yet he deemed it due to Dr. Bouquillon, and to the public to review it in a supplement to be appended to this essay.

Though much has been written on the subject since his paper was practically finished, the author did not deem it expedient to make any material changes—not even after reading the Doctor's "rejoinder." He preferred to give his first impressions of Dr. Bouquillon's brochure; which, for the rest have only been confirmed by whatever criticisms have since come under his notice. He endeavored to treat Dr. Bouquillon with that fairness and deference, which he would consider due to himself, and much more to a man of such deserved reputation and true merit as Dr. Bouquillon. Should a single word of this paper seem harsh, or unduly severe, to the readers the author would fain have it unsaid.

Canisius College, Buffalo, N. Y.

January 31, 1892.

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THE STATE LAST.

A STUDY OF DR. BOUQUILLON'S PAMPHLET.

Education: to whom does it Belong?

I. INTRODUCTION.

Dr. Bouquillon's long looked for [1] pamphlet has brought thus much satisfaction to those interested in the juridical aspect of education, that the advocates of state education now know all that can be said in their favor, while the defenders of domestic rights against state encroachment have learned how little can be advanced against them. However, we cannot consider the general effects of this publication as by any means gratifying to either party, beneficial to the Church, or serviceable to any good purpose. The general impression we believe is disappointment. Dr. Bouquillon's opponents, who, we believe, form the bulk of those interested and capable of having an opinion on so difficult a matter, are disappointed, though not disagreeably, that only so light a force could be mustered against them from such a quarter aroused to hostilities. Many of them expected a much more formidable array. Those few, on the other hand, who are known to covet and court state interference were doubtless more painfully disappointed at finding so weak a support upon which to

[1] It is now an open secret, made common property by Dr. Bouquillon's own friends, that his pamphlet was written for the *American Catholic Quarterly Review*, but rejected by the editors, for reasons which will probably strike the reader as he peruses these pages. Its publication as a separate pamphlet was awaited early last summer; but for reasons best known to the author, it was withheld from the public until the latter part of November last, about ten days before the meeting of the Archbishops in St. Louis; at which meeting the school question was to come under consideration. How far this delay was premeditated, or accidental, we do not take upon ourselves to judge.

See *Northwestern Chronicle* December 11, 1891, and January 1, 1892. Cf. *The parent first* by Rev. R. I. Holaind, S. J., Preface.

rest their cause. Besides, this class of social philosophers are used to frothy declamation rather than sober reasoning; and Dr. Bouquillon, instead of spreading the American eagle to their wondering gaze surprised them with a modest, severe, albeit scholarly, dissertation, giving them all the benefit of his profound erudition and varied reading in almost rigid scholastic form. Were Dr. Bouquillon less of a scholar and more of a demagogue he would, we think, have written a more satisfactory, and probably a more successful, plea for state education.

We unhesitatingly call Dr. Bouquillon's pamphlet a *plea for state education*, although he himself does not introduce it as such, and although he does not confine himself exclusively to the discussion and defence of state rights. The proportions of the book itself, to say nothing of the *animus* with which it is written, justifies this view of it. For, apart from the introductory and concluding remarks, we find that fully two-thirds of the space is devoted to the defence of the rights, duties and power of the state, while only one-third is left to the treatment of the rights, the mission, and the authority of the individual, the family and the Church. Whatever share, then, the state may have in the education of the child, it gets, at least, the lion's share of the pamphlet. It might, therefore, be justly entitled: The State *versus* individual, family and Church—not that the author wishes to give undue rights to the state, but that he is so very anxious to give it its dues as against the individual, the family and the Church. This is a sort of distributive justice very commendable in the learned moralist; but he should also remember the old saw: *Summum jus, summa injuria.* The greatest right is often the greatest wrong.

The purport and motive of the learned author, as we read in his preface is "to show that in the matter of education as in all other social concerns the true doctrine of the Church is opposed neither to liberty well understood nor to the just prerogatives of the state." Those "just prerogatives of the state," are, as we subsequently learn, the *right to educate*, strict, special and proper. The Doctor's point, therefore, as we understand it, is this: *That the state has the right to educate, in the ordinary sense of this word; that this right is a special and proper right* (*p. 11*), *such as the state has to govern and to judge, i. e., through its delegates* (*p. 12*); *that having such right it has also the mis-*

sion, or obligation to educate (*p. 18, sq.*), *and certain authority or control over education* (*p. 23, sq.*).

Now, in this proposition, taken in its generality, there is much that is unobjectionable. That the state has a certain control over education may be conceded; but the extent of this control must be defined by certain principles and concrete circumstances; else it does little towards the solution of the problem on hand. That the state has an educational mission (or, in the Doctor's meaning, a certain duty in regard to education) is also beyond dispute. But that the state has a right, *special* and *proper* to *educate*, in the accepted meaning of this word, as it has to *govern* and to *judge* by its agents, we cannot grant; and this is the precise point on which we take issue with the learned Doctor, as far as principles are concerned—and he strictly confines himself to the discussion of principles. We deny that the state is an educator *per se*, or has the *special and proper right to educate*, (this right we vindicate in the *natural* order to parents exclusively); though we do grant the state extensive rights, a certain mission, and certain authority in regard to education. We have treated this question at length long before the present controversy arose; and on further reflection, in the light of all that has been written since upon the problem, we do not believe that we have modified our opinion. In 1883 we summed up our views in these words:

"Abstracting from the prerogatives of the Church, we say that, according to the natural law, which is the basis of the moral order and of all positive legislation, education is the business of parents, to the exclusion of all others; that they have, therefore, the sacred and inviolable right to educate their own offspring, or intrust them to the care of those who will educate them, according to their moral and religious convictions; that the state, according to the same divinely-constituted order, should not be the educator of its children, but only the promoter and patron of education; that this is its only function in regard to education, by which alone it can lead the people to true civilization; that any further interference on the part of the state, in the matter of education, is not only violent and unjust, but must needs prove destructive to religion, to morality, to genuine culture, and to the social order of nations." [1]

[1] Respective Rights and Duties, etc., p. 32. (2 ed.). New York, Pustet, 1890. Cf. *American Catholic Quarterly Review*, Jan., 1884.

We cannot afford here to set forth the arguments which led us to the above conclusions; we can only refer the reader to the preceding pages of the work cited. The point in which all arguments in support of our position taken from reason meet is, in our opinion, the following: Parents have the *indispensable duty*, arising from the fact of procreation, by themselves, if possible, or by reliable representatives, if they themselves are unable to discharge this duty, personally, to educate their offspring according to the dictates of conscience. Now, to an indispensable duty corresponds an *inalienable right.* Therefore parents have the inalienable right to educate their offspring according to the dictates of their own conscience. The force of this argument is admitted by Dr. Bouquillon himself (p. 10) where he says: "This right of parents is *sacred;* no one may *suppress* or *diminish it; for it springs from a paramount duty*" (Italics ours). And he cites in confirmation of this assertion the unmistakable words of Leo XIII. to the Bavarian Bishops Dec. 22, 1878: "In these duties, assumed by the fact of the procreation of children, parents should know that just as many rights are inherent (inesse) according to natural right (naturam et æquitatem); and that these rights are such that they may not in aught dispense with them, that no human power can detract aught from them, since one cannot lawfully be absolved by man from the duties by which he is bound to God." [1]

Hence it is manifest that parents can never renounce or forfeit this right, to educate their own children, or to have them educated by teachers, or in schools, of their own choosing—not even by free suffrage in a democratic commonwealth; for an inalienable right can no more be put at the mercy of a popular majority than in the hands of an absolute monarch or of a constitutional government. The only case thinkable in which this right can be forfeited is that of crime or inability (insanity, poverty, &c.). Strange that Dr. Bouquillon, after stating the premises so clearly (p. 9–10) fails to see the conclusion, and rather goes out of his way to seek limitations to parental rights.

[1] "Hisce in officiis simul cum procreatione liberorum susceptis, noverint patresfamilias totidem jura inesse secundum naturam et æquitatem, atque esse ejusmodi de quibus nihil liceat sibi remittere, nihil cuivis hominum potestati detrahere, quum officiis solvi, quibus homo teneatur ad Deum, sit per hominem nefas." Encycl. "Officio Sanctissimo."

This is, briefly stated, our doctrine and the main argument on which it rests as contrasted with Dr. Bouquillon's teaching. It will be seen in the course of our investigation that it is the common teaching of Catholic writers, particularly of those cited by the Doctor in defence of his own opinion. It must be borne in mind, however, that we have to deal with Dr. Bouquillon's teaching, not to establish an argument or a *consensus* of theologians and philosophers. We shall, therefore, introduce positive matter only in as far as it will be deemed expedient, to show the untenableness of the Doctor's position.

In order to treat Dr. Bouquillon's pamphlet with that thoroughness and completeness due to the work of so eminent a man, and required by the importance of the subject, we shall examine:—

1. *His arguments.*
2. *His authorities.*
3. *His method.*
4. *Some details of his procedure.* After this is done we shall have something to say in *conclusion* of its general character and its opportuneness.

II. Dr. Bouquillon's Arguments.

If we have rightly understood the Doctor's process of reasoning he has two chief arguments; the one of a general, the other of a more special nature.

1. The first argument we take to be this: *Every person*, whether physical or moral, i.e., every individual, or corporation, *has a right to educate.* But *the state* is a moral person, or corporation. Therefore the state has a right to educate.

If the *major* of this syllogism is granted the conclusion is inevitable; as the minor is evidently true. Therefore the author is concerned only with the major and devotes to it the greater part of pages 7–9 under the heading: *Right of Educating in the Individual.* This whole section is apparently directed against the *positive right* theory, which claims that the right of education is derived from, or delegated by, sovereign authority, or positive legislation. The conclusion we find referred to (p. 11), where the author says: "It were unreasonable to refuse to the state that which is granted to every legitimate association [i.e., the vague and general right to educate]." But what of the *major?*

We grant as against the *positive right theory* that the right to teach is an individual, personal, or domestic right, antecedent to, and independent of, all positive law or enactment. But is this right vested in *every individual*, whether physical person or corporation? This we deny, unless we are to understand by education the mere communication of thoughts and ideas. But to communicate one's thoughts or ideas is not to teach in the sense of *educating*. And herein lies the Doctor's fallacy. He proceeds from a defective definition of education. We insert the entire passage lest we should seem to misrepresent the Doctor's meaning.

> What is education? In a large sense it is to *communicate what we know to one who does not know*. In a restricted sense it is to *communicate after a methodical and continuous fashion* knowledge relative to religion, morals, letters, sciences, the arts; or, it is to instruct and train childhood and youth. But every man has the *right to communicate the truth*, and to communicate it after the fashion that is most efficacious and best adapted to those who wish to receive it. For this he needs no mandate from government. To allow to every citizen the right of expressing opinions by speech or by the press, and at the same time to deny him, as is done in some countries, the right of teaching is a monstrous contradiction. (Italics ours).[1]

This definition of education, on which is based the Doctor's argument is altogether insufficient. The idea of education is not covered by that of teaching or instructing; much less by the idea of incidental communication of ideas. The salient, the essential feature of education is the training of the human faculties, the building up of the perfect man or woman, the development of human power, the direction of youth in the way it should walk to gain its end in this life and the life to come.

Cardinal Gibbons in *Our Christian Heritage* (p. 489) justly emphasizes the necessity of a clear and correct definition, and brings out prominently this feature, of education. "I am persuaded," he says, "that the popular errors now existing in reference to education spring

[1] Dr. Bouquillon allowed himself to be mislead to this definition by his admired friend Sauvé, from whom he takes it almost *ad verbum*. "Pris dans sou sens le plus général, l'enseignement signifie *la communication d'une chose que l'on sait à quelqu'un qui l'ignore* (p. 236) . . . . Pris dans un sens plus restreint, l'enseignement signifie la *communication méthodique et continue* de connaissances relatives à la religion, à la morale, aux lettres, aux sciences et aux arts, ou, si l'on vent, l'instruction et l'edueation de l'enfance et de la jeunesse. Dans ce second sens, comme dans le premier, l'enseignement n'est un droit que s'il s'applique à des connaissances qu'il soit licite de communiquer aux autres." Questions religieuses et sociales, p. 238.

from an incorrect notion of that term. *To educate* means *to bring out*, to develop the intellectual, moral and religious faculties of the soul. An education then which improves the mind and the memory, to the neglect of moral and religious training, is at best but an imperfect system."

Instruction is but a subordinate function, albeit necessary, in the entire process of education. To teach, therefore, in the sense of educating implies much more than merely to communicate knowledge to one who does not possess it.[1] The teacher, that is, the educator, has to deal with the intellectual, moral and religious life, growth and development of the child. This is a sacred function into which no intruder may thrust himself. One has no more right to undertake the instruction or education of another's child without his consent, than one has the right to plow or sow or reap his neighbor's field. The reason is this: the right to teach, in the sense of educating, supposes authority in the teacher and submission in the pupil; unless it is simply a question of contract between a teacher and grown up pupil; in which case the teacher may put conditions, but cannot exact obedience except conditionally. But such a relation between pupil and teacher can hardly be called education in the true sense of the word.

Whence, then, does the schoolmaster derive his right or authority to teach? Like every other right this right must be based on some fact; and here it is the fact by which the schoolmaster receives his pupils; for there is a co-relation between teacher and pupil. Now, by what facts can one become the educator of another? By the very fact of procreation parents (the father in the first instance) become educators, with strict duties and corresponding rights. The facts by which any other may become an educator are, as far as we can see, either *free contract* between teacher and pupil (but in this case, there is hardly question of education in the strict sense), the *choice* of *parents*, or the incorporation in a teaching body (e.g., a college or university), by which fact pupils of such institution become *his*. Whatever authority the schoolmaster has over his pupils, therefore,

[1] "Educatio non in sola corporis nutritione primis infantiæ annis consistit; sed educatio est complexus omnium actionum, quibus non solum conservatio, sed et perfectio corporis atque animi liberorum et physica et intellectualis et moralis in facultatum evolutione usque ad adultam ætatem promovetur, ita ut liberi vitam natura rationali dignam et conditione parentum sociali saltem non inferiorem agere possint." Costa-Rossetti, Phil. Mor., ed. 2. p. 434. Cf. Respective Rights and Duties, etc., pp. 9-11.

(abstracting from ecclesiastical jurisdiction) is delegated by the parents, who either choose him personally or the institution to which he belongs. This, is as far as we could gather, the common opinion of Catholic writers on the authority of schools and schoolmasters.

When, therefore, authors say that individuals have a right to educate they either mean the right of exchanging ideas, or the right of instructing the ignorant, which is a work of mercy that all have a right to perform, or the right of teaching the rudiments of the faith privately (not publicly) to those who are not instructed; or finally they understand a *negative right* (Dr. Bouquillon himself p. 11. calls it a "vague and general" right) i. e., a right not to be unjustly hindered from exercising the profession of teachers or educators, if possessed of the necessary attainments. But no other author, to our knowledge except Dr. Bouquillon simply and unqualifiedly vindicates to every individual the right to educate.[1]

On this assumption Dr. Bouquillon proceeds: "If every individual has the right of teaching what he is capable of teaching to whomsoever will accept his teaching, a collection or legitimate association of men endowed with a like capability must have the like right" (p. 8). The *condition* of this hypothetical argument as we have seen is not verified, but requires to be essentially modified; and, therefore, the *conditional* conclusion calls for the same modification. Nay, more, we cannot refrain from noticing that the individual is in a much more favorable condition in regard to the right to educate, than societies and corporations as such. For every rational individual is at least free to qualify himself for the office of teaching and to acquire the right to teach; but the case is different with societies; they can acquire this right only when teaching, or education, lies within their special scope. A base-ball association, for instance, or an insurance company, or the Farmers' Alliance, could hardly acquire the right of educating. And this, be it borne in mind, is true also of the state, if it can be shown that education as such is not one of its proper functions.

The positive arguments adduced by Dr. Bouquillon (p. 9) have no force whatever. The Lateran Decree[2] referred to only forbids unjust exactions and the refusal of the *license* to teach to those who are

[1] When we wrote the above we had not yet read Sauvé's *Liberté d'enseignement.*

[2] Decretales, lib. v. tit. 5, de Magistris, cc. *Quoniam* and *Quanto Gallicana.*

qualified, but it manifestly supposes that the *license* itself must be obtained; and that from the ecclesiastical authorities. Abelard and the Professors of Padua and Verceil (Vercelli?) received their authority to teach either by express or implicit contract with their pupils or their pupils' parents, or by the sanction of the communities among whom they taught, or by the tacit consent of the Church, or by all these collectively. We shall have occasion to return to the other learned authorities whom the Doctor here quotes for his opinion.

It is but fair to note, however, that the Doctor does not lay any great stress on this general argument: he may not even look upon it as an argument in the strict sense; but certainly we must consider it as a step, however unimportant, towards establishing his main point, as we see no other reason for giving it such prominence in his treatise, and precisely in this part. [1]

2. The *second* or main argument (p. 11-12) is to be found under the heading: *The Right of the State to Educate.* By the state the Doctor here understands "not the people but the social authority," whether vested "in one person, or in an assembly." This authority, he says, is essentially "*one and the same and always and everywhere has the same rights and attributes*" (Italics ours). Here we would warn the reader that these words are misleading. In the merely *natural order* and in the *abstract* this might be granted; but in the *positive* and *concrete order*, the power of civil authority may be modified in diverse ways by constitutional concessions and restrictions; and, above all, in the *supernatural order* the power of the state may vary indefinitely according to the relation in which it stands to the supernatural authority. In the *concrete*, therefore, the extent of civil power may be very different according as it is vested in a Charlemagne, a Sixtus V., a Garcia Moreno, a Queen Victoria, or a President Harrison. Had Dr. Bouquillon borne this diversity in mind, he would have come to a more satisfactory solution of the tangled school question.

Here the Doctor vindicates for the state, not "a vague and general" right as "granted to every legitimate association," but a "*special and proper* right, of teaching human knowledge" or of *educating* as expressed in the heading and elsewhere. This right of teach-

[1] We have been confirmed in this opinion by reading the work of Mons. Sauvé, whom Bouquillon follows as his master. This author gives great prominence to this argument to vindicate the right of educating not only to the state, but chiefly to the Church.

ing on the part of the state is described as that of "establishing schools, appointing teachers, prescribing methods and programmes of study....in the same way as it [the state] *governs* and *judges* (Italics ours), viz, through delegates fitted for such functions." Some of the rights here ascribed are in a certain sense unquestioned and unquestionable; as, for instance, in *certain cases*, the right of establishing schools, appointing teachers, and, *with certain restrictions*, prescribing methods and programmes of study *for such schools;* not, however, in the same manner as the right of governing and judging, but as a secondary and accidental function as the Doctor elsewhere concedes. But such rights cannot be categorically asserted as they are by Dr. Bouquillon. We give the Doctor's argument in full (p. 12), italicizing those passages to which we would draw special attention.

These considerations being premised to obviate all equivocation, we affirm unhesitatingly, and in accord, as we think, with the principles of sound theology and philosophy, and with the testimony of the tradition of the Church, that it must be admitted, as the larger number of theologians do admit, *that the State has the right to educate.* The following reason, drawn from the very nature of things and, in our judgment, thoroughly apodictical will suffice. Civil authority has the right to use *all legitimate temporal means it judges necessary* for the attainment of the temporal common welfare, which is the end of civil society Now *among the most necessary means* for the attainment of the temporal welfare of the commonwealth is *the diffusion of human knowledge.* Therefore, civil authority has the right to use the means necessary for the diffusion of such knowledge, that is to say, to teach it, or rather to have it taught by capable agents. We believe the major proposition of this argument cannot be denied, especially if it be kept in mind that we are speaking of *temporal* means that enter into the sphere of action of the state, and of *legitimate* means that trench on and wound no other right. With this double reservation the right to an end evidently implies the right to the means. Neither can the minor proposition of the argument be reasonably denied. You have but to look around you, you have but to consult history to be convinced that from the moral, social, political as well as material point of view, science, possessed in different degrees according to different conditions, is one of the primordial elements of prosperity in any country. A nation needs citizens able to take interest in the commonwealth, workmen that are intelligent, surveyors that are skilful, physicians that are experienced, jurists that are learned. An ignorant people is a people inferior in agriculture, industry, arts, war. If you would have a people instructed, you must look to its instruction, and, if need be, establish and direct it. *We look upon this conclusion as impregnable.*

This argument, the conclusion of which its author looks upon as "impregnable," has very little, if any weight. For, in the first place, it *proves too much* there is hardly a tenet advocated by socialists or modern social reformers generally but could be equally proved from

this argument. "Civil authority has a right to use all legitimate temporal means for the attainment of the temporal common welfare." Now, "among the most necessary means for the attainment of the temporal welfare of the commonwealth" are the judicious administration of temporal goods, the wise regulation and distribution of all industrial products, the proper control of the means of communication, the cultivation and utilization of the soil to its utmost degree of productiveness, the choice by each citizen of the most suitable calling or profession, the choice of good and congenial wives and husbands. Therefore civil authority has the right to administrate all private property, to regulate and distribute all productions, to control all the means of communication, to cultivate the soil and work all the mines of the country, to choose a vocation or employment for each of its citizens, and to assign to each individual a congenial partner for life. With such an argument you may prove anything, therefore it proves nothing. Hence there must be a flaw in it. Where is the fallacy?

The *major* might pass if we are to understand by "legitimate temporal means" *what is really for the common good, within the proper scope of civil authority; and what does not trench on the inalienable rights of the individual, the family and the Church.*

The *minor* omits "legitimate" and substitutes "among the most necessary." Now, *some* "diffusion of knowledge," by *some means*, and *to some extent*, is a "necessary means" for the common good; but not the diffusion of all kinds of knowledge, or any certain kind of knowledge conveyed by certain special means (say, a certain programme, taught according to a certain method, in a public school). This latter kind of knowledge—communicated by the state through its public schools—is not "necessary;" neither is it a "legitimate means" if obtained by the violation of personal or parental rights. Therefore the state may not use it as a means unless in certain cases, when it is for the common good, and when it is within the scope of the state, and does not infringe on higher and more sacred rights. Thus, for instance, the state may establish schools for its special purposes, such as military and naval academies, common schools where such are needed and not otherwise provided for; industrial schools for the children of the criminal and helpless classes, who are not otherwise cared for; or schools generally, where necessary or useful, provided it conforms to the just

wishes of parents and of the Church [1]—but not a system of public schools to be regarded as the only acknowledged means or standard of education to which all have to submit or conform; such a means of diffusing knowledge would be *illegitimate*. The argument, therefore proves nothing and we are just where we started.

The learned author will, moreover, permit us to draw his attention to the technical looseness of this syllogism. In the major we have as middle term: "*all the means it* [the state] *judges necessary*"; in the *minor* we have: "*among the most necessary means;*" in the conclusion the writer jumps to "*the necessary means* [for this means i. e.] for the diffusion of such knowledge." In a man of less gravity than the learned Doctor, this would sound very much like quibbling. The author himself shows the weakness of his "impregnable conclusion" when he descends to the following remark (p. 12–13).

> The civil power does necessarily teach in one way or another, as for instance, when it exercises legislative and judiciary powers; for a law is an enlightenment, a teaching for the mind as well as a direction for the will; the sentence of a tribunal is likewise an educational agency; and therefore the state as legislator and judge has in virtue of this double capacity the right of imparting education. [2]

This is education in a rather metaphorical sense, the right to which no one will deny the state.

To his "impregnable conclusion" that the state has the right to educate Dr. Bouquillon subsequently appeals to prove the so-called mission of the state to educate, and its authority over education (pp. 19, 23). This is about the only serious attempt at philosophical argumentation in the pamphlet; and with this argument stands or falls the Doctor's opinion, as far as he would have it based on reason. We may, therefore, take leave of it and proceed to the examination of—

III. Dr. Bouquillon's Authorities.

The author "professes to walk in the footsteps of the great theo-

[1] Cf. Respective Rights and Duties, &c. p. 29, sq.: Rights of our Little Ones, questions 49, 50, 56.

[2] Here the Doctor allowed himself again to be misled by his admiration for Sauvé: "C'est ce que fait l'Etat en exerçant la puissance ou législative ou judiciare, puisque toute loi est une lumière, un enseignement pour l'esprit et en même temps qu' une direction pour la volonté, et que toute sentence est aussi une sorte d'enseignement. Législateur et juge, l'Etat ou le souverain est, en cette double qualité, investi d'un certain droit d'enseigner: *Lex*, dit saint Basile, *et doctrix et magistra*." Opus. cit. p. 254.

logians, especially of St. Thomas. He has, he says, "been guided by the light of the encyclicals of Leo XIII." Now, it is true, he quotes St. Thomas and the encyclicals of Leo XIII. a few times, but not a single time bearing upon the main issue that the state has a *right proper and special to educate* as it has the right to judge and govern by its representatives, but only on secondary issues, which we all admit, or in cases in which they are manifestly against his teaching (as on p. 10, and p. 23), as we shall have occasion to notice hereafter.

Now, who are the great theologians in whose footsteps he professes to walk? He permits us to review them in his introduction (p. 5–6).

As to principles, we acknowledge that they are to be found best exposed in the more recent publicists, rather than in the older writers who lived before the modern era of the separation of Church and State. *We quote in preference* (Italics ours). Taparelli, *Saggio teoretico di Diritto naturale*, diss. 7, and *Esame critico degli ordini representativi*, tom. I, p. 314; Card. Zigliara, *Phil. mor.*, p. II, lib. II, c. I, a. 5; Costa-Rossetti, *Inst. Eth.* et *jur. nat.* thes. 175, 176; Hammerstein, *De Eccl. et Statu*, p. 146, 158, 181; Sauvé, *Questions religieuses et sociales*, c. 10; Cavagnis, *Inst. Jur. publ. et Eccl.*, lib. IV, c. I. *Mention must also be made* (Italics ours) of Coppola, *Sul Diritto della Chiesa in ordine al publico Insegnamento;* Riess, *Der moderne Staat und die Christliche Schule;* Jansen, *De Facultate Docendi;* Conway, *The respective rights and duties of family, state and church in regard to education;* Robiano, *De Jure Ecclesiæ in Universitates Studiorum;* and finally the anonymous work of two French priests, *L'Ecole neutre en face de la Théologie.*

To these are added the various collections of the decrees and canons of the Church, and the *schema de ecclesia* prepared for the Vatican Council, but not discussed, a large array of church historians, and, in short, the entire pædagogical literature as described in *Polybiblion* (1873–74) and elsewhere. There is no lack of authorities, therefore and of course the simple reader, who has not read all the books reviewed in *Polybiblion*, is left to believe that all those authorities converge in the opinion propounded by the learned Doctor; if he happens to have overlooked, as he is very likely to do, the incidental remark in the preface: that "he [Dr. Bouquillon] could not omit, without sacrificing completeness, certain delicate points of detail on which Catholics are not in agreement."

Now, as the reader must have remarked, the Doctor divides his authorities into two classes; one whom he "*quotes in preference,*" and another of whom only "*mention must be made.*" He evidently lays

more stress on the former, either because they have the greater weight, or because he thinks they agree with him in his views on state education. For one or both of these reasons he does not make a single reference in his work to any of the second category of authorities ; although he does not rigorously exclude others who are not mentioned on the first list.

It seems to us, therefore, that if we can show that the authorities mentioned in the first class are against, or certainly not for, Dr. Bouquillon in his main point—i. e., the special and proper right of the state to educate—his position as that of one man against so many or against all the great authorities, who have written on the subject, becomes very questionable, nay, untenable.

a. In regard to these authors, and to Catholic authors generally, it may be remarked ; firstly, that they do not deny the state the right to establish schools for its own special purposes ; nor in any other case in which schools are necessary or expedient for the common good, and not otherwise provided for ; nor the right of procuring an education for abandoned or destitute or criminal children and youths, if not otherwise cared for ; nor do they even deny the state the right to establish and support a system of public schools, particularly elementary schools, for children indiscriminately, provided the rights and just demands of parents and of the Church are respected and complied with ; much less do they deny this right to the state in the case in which there is an understanding between Church and state, whether by agreement or constitutional and organic union.

b. While granting to the state the right and duty of protecting, fostering, and promoting education, they deny the *proper* and *special* right of the state to *educate* in the strict sense of the word, unless in utter default of parents (and next in kin), making this right in the natural order a strictly parental right.

c. While granting that the state in union with the Church can enforce *compulsory education* they persistently deny this right to the state as such—most particularly to the *agnostic*, or purely secular, state.

d. Over *private schools*, i.e., those that are not state schools, they allow no further state supervision than that exercised over any other place where a large number of people are wont to assemble for social or mercantile purposes; while the *family education* as such is subject

to no state control more than any other department of domestic life. We shall examine Dr. Bouquillon's authorities one by one.

1. *Taparelli*,[1] one of the first authorities on natural law, lays, indeed, great stress on the rights and duties of the state *in regard to* education, insists that the state should offer all legitimate advantages for popular, scientific and technical education, and emphasizes also what he calls *civil* education, or education in the social or civic duties. But this latter education seems to consist practically, or chiefly, in the equitable discharge of the ordinary functions of civil government not in any scholastic training (cf. Saggio nn. 909–987).

Nowhere do we find a passage in this author indicating, or capable of being interpreted as justifying, the right of the state to interfere in private education, or in domestic affairs generally, except in cases of flagrant abuse or neglect, endangering the social order. He advocates the fullest freedom from state interference for all schools, also for public schools that are not strictly government or state schools. He everywhere represents education as the special, proper and exclusive right and duty of parents. He sums up the influence of civil authority on education in the following words (n. 1570).

"From the preceding considerations what should be the influence of civil society [the state] on private education? As private education belongs altogether to the department of *domestic authority* and is one of the motives of the perpetuity of marriage, if civil and political authority had the right to interfere in private education, it could be only to direct it to the common good, or to repress disorders. The first cause [the direction to the common good] cannot occur because all education conducted on the principles of morality tends of itself to the common good, to order. *Order itself demands that the right of parents in this matter be safeguarded*, since this right is *inalienable*, being at the same time a right and a duty; the exercise of this right could not be more safely confided than to the tenderness of parents. This exercise is also facilitated by the community of life and by the total natural dependence of the child [on parental aid]. *Civil power cannot therefore in normal circumstances arrogate to itself the right to direct private education.* The state, however, may open to

[1] Saggio teoretico di diritto raturale; Esame critico degli ordini representativi. Not having the original Italian at hand we quote from the French edition of the *Saggio*, published under the supervision of the author in Paris and Tournai 1857 in 4 Volumes.

youth the pure fountains of the true and the good. It may, while offering guarantees to parents [for the preservation of faith and morals] come to their aid in the work of education, *provided only it use no force in the matter.* In this affair the state may *not arrogate right, but offer assistance;* this is a laudable endeavor in a progressive society."

Taparelli vindicates this same right to the next in kin in default of parents. "In default of parents the duty of education devolves upon the next in kin; they shall have to that effect *all the rights necessary*" (n. 1575). Again (lib. viii. c. 4. prop. 3) he says: "A good government should not interfere in the *private affairs* of its citizens except to correct *disorders* that have become *notorious by infamy* or by legal denunciation [réclamation]. "Civil authority should so distribute its public functions as *not to meddle in the domestic and private affairs* of its subjects." (Ibid. prop. 4).

(Vol. iv. p. 344–345. Nòte 140). Taparelli puts the query: Whether the parents are free to entrust the education and instruction of their children to whomsoever they please? He answers: "There is no doubt as far as *private* and *domestic* instruction is concerned, if he in whom they place this trust has the qualities required. However public authority cannot interfere unless there is question of a *notoriously immoral or suspected person.*"

He then puts the same question in regard to *public* instruction as distinguished from what he calls *social* instruction. The former is that given to the children of several families united; the latter that which is given in the name of the state, in state schools. In the former case which corresponds to our parochial schools and all others that are not state schools, he says, "civil authority, acquires in consequence of this *material publicity* [publicité materielle] the right of supervision since the action of teaching is no longer confined within the precincts of the family, under domestic authority. But society does not contract any *obligation* to guarantee the doctrines [of such schools] by its authority as it does in the case of social [state] instruction. Therefore it has not the right, arising from such obligation, to prepare a formula [programme] for the instruction to be given by the teachers [of such schools]. The state will, therefore, be in the same condition in regard to such teachers as we have observed in our answer to the first query [in regard to strictly private schools]." "A *christian state* [société croyante] derives from the

infallibility in which it believes the right to prohibit error. But a *non-Christian state* [société incrédule] cannot show any title to direct the moral teaching [of such schools], since the latter depends on conscience, to which the state has guranteed liberty. The *material publicity of such schools gives no further right to the state over them than that which it has over every other numerous gathering, in which the diversity of families united produces a similar material publicity.* Public authority, therefore, in such cases has the right to provide for peace and sanitary conditions, and respect for law as in the case of a pleasure party or an insurance company. But as in these latter cases it cannot exclude anyone *because he is unable to dance, or has not administrative abilities*, neither can it in the case of private schools attempt to exclude teachers or pupils on account of their incapacity."

Again, (Ibid. p. 347) he says: "A state which does not present any reasonable title to infallibility *cannot control the teachings, nor reject the teachers, nor, consequently, exclude from the public employments the pupils of free* [that is, public, but not state] *schools.* If the state should pretend in this matter to bind men's consciences by its ordinances, it would commit *the gravest outrage* against that liberty which it has guaranteed."

(Ibid. p. 348). Taparelli establishes and proves the following propositions: 1. "The education of youth is *strictly* (proprement) *of parental or domestic right.* 2. [Against Gioberti] Ecclesiastics can, *even of themselves alone* [i. e., without aid from seculars] sufficiently assist parents in the education of their children; and *the secular influence of civil wisdom*, as Gioberti calls it, may in the matter of education prove eminently dangerous." In connection with the second proposition he says:

"This proposition seems to us to be evident from what has been said in the text (n. 1560), and it is impossible to see how the elementary education of their children can be wrested from the hands of parents *without infringing on the rights of nature.* Even Gioberti when he advocates public education, *certainly does not wish to enforce compulsion*, but only to improve the public institutions in such a way that parents of themselves might have recourse to them for the education of their children. If it were permitted to civil authority thus to restrict parental rights, how could it be forbidden to the most perfect of societies [the Church] whose aim is spiritual, whose teaching is infallible, whose legislation is holy and universal in its extent, violently to force

from infidel parents their children to bring them regenerated into the harbor of salvation? *The Church, however, reproves the imprudent zeal of those who would prevent infidel parents from educating their own children.* How, then, could we concede to civil authority, for a temporal advantage that power which is denied the religious society [the Church] for man's spiritual and eternal weal."

When we compare this teaching with that of the defenders of state education we cannot but marvel that Dr. Bouquillon could put the name of Taperelli at the head of his favorite authorities. We may add here that the passage quoted from Taparelli by Dr. Bouquillon (p. 17) of itself completely undoes the latter's position.

" Let us consider the child," says Taparelli, " at the moment when his reason puts forth its first complete and formal act. Evidently at that moment the child does not know all truth; it scarcely has any clear ideas; for a long while it will need masters to impart to it by their authority the simplest and most necessary notions. As soon as these primal ideas are proposed to it, it sees their fitness, at least, vaguely and confusedly; and if they were not proposed to it, it would remain in ignorance of them for a long time. The intention of nature is that they be proposed to it, for nature has formed intellect for the knowledge of the truth, and society to facilitate and develop such knowledge. *And so the parent has the obligation of instructing and the child the obligation of attending to the instruction, until the day when the reason of the youth is matured* (Italics ours) and he can discover for himself the principles of conduct, the laws of his moral activity. Then only, *when the reason of the child is nearly as well developed as that of the father*, the child being equally capable of knowing the truth by himself, is he bound to give to his own reason that obedience which formerly he yielded to the reason of the parent."[1] (Ibid. n. 1565–56).

If the parent has the obligation and, consequently, the right of instructing the child " until the day when the reason of youth is matured " and " the child as nearly as well developed as the father " what room is there left for state education?[2]

2. Next in order of citation is *Cardinal Zigliara*,[3] an author of the

[1] Translation by Dr. Bouquillon.

[2] These questions are treated more extensively in Taparelli's *Esame Critico* (Part I. c. 7).

[3] Sum. Phil. Vol. iii. pars. ii. lib. ii. c. i. a 5.

greatest weight in philosophical matters. He treats the question of education in his ethics with that fulness and conciseness that we might expect in a text-book of the dimensions of his *Summa philosophica*. Now, what is Zigliara's teaching?

He sternly rejects *state monopoly* of education, as advocated by Victor Cousin and other liberals whom he characterizes as the *public destroyers of parental authority* (publici oppressores patriae potestatis).

He grants to the state, what no one denies, the right and also the duty of *procuring suitable means of education* (procurandi media aptiora ad educationem), and of watching over education, both intellectual and moral, so as to keep it within the bounds of truth and morality (this, of course, only in as far as truth and morality comes under the external moral order).

He establishes the following thesis: *Civil authority has no right to obtrude its own teachers, and its own schools on parents* for the intellectual and moral education of their children. [1]

He does not treat *ex professo* the question of *compulsory education;* but he sufficiently expresses his disapproval of compulsion particulary by an irreligious, indifferent, or agnostic state. In solving a difficulty fetched from the supposed right of the state to impose *obligatory instruction*, he says: "I do not wish to detract in aught from the rights of the state; *but state rights are not divine rights;* they are limited rights which presuppose other rights no less, nay, even move sacred than state rights—rights which the state is bound not to destroy, but to protect. The rights of the state extend just as far as the manifest exigency of the good of the commonwealth. Now, is *compulsory instruction* really for the common good? Speaking *in the abstract:* certainly. But considering the matter *in the concrete: it is very doubtful* (res valde dubia est)—not, indeed, if we consider instruction in itself; but, if we attend to the numberless means by which minds are corrupted under the pretext of instruction, as sad experience daily teaches. But *granted* (concedamus) the state has the right to enjoin compulsory instruction; what follows thence? Nothing else, in sooth, than this—that parents might be compelled by law to instruct their own children. But the state which under the pretence of obligatory instruction imposes its *own* instruction, a so-called *secular* (laicam)

[1] Status civilis nullum jus habet imponendi suos magistros, suasque scholas patribus familias quoad filiorum educationem tum intellectualem tum moralem.

instruction, and, what is still worse, a *godless* (atheam) instruction, *violates the rights of parents.*

In this passage Zigliara only grants for *argument's sake* the lawfulness of compulsory instruction (not education strictly so-called, not school attendance) because he does not wish to enter upon the question, whether from prudential reasons, or because he thinks this question is outside the scope of his elementary work. But on what side of the question his sympathy is, the unbiased reader cannot fail to see. And yet, strange to say, the learned Cardinal is cited as a defender of the public school and even of compulsory education.[1]

3. Nothing surprised us more than to see *Costa-Rossetti*[2] cited for Dr. Bouquillon's doctrine. Of all the authors we had the pleasure of consulting none is more explicit, none more uncompromising in his defence of the rights of the family than Father Costa-Rossetti. Yet he does not neglect to give to Cæsar what is Cæsar's.

He establises the thesis (p. 733): "Civil authority may indeed establish schools and direct schools thus established; but it cannot prohibit the citizens themselves also from erecting public schools and controlling and directing schools thus erected; yet it cannot grant *absolute liberty* of instruction."[3] Rossetti, therefore, grants the state the right to found schools without any restriction except, of course, the common good; but he denies the right of *monopoly* to the state. He maintains that the state cannot grant *absolute liberty of instruction* because it is the duty of the state to prevent or suppress irreligious, impious and immoral schools.

So much for Cæsar; but, now for the *parents.* His thesis (pp. 736) is: "In virtue of the natural law parents cannot, in justice, be *directly* (*per se*) compelled to send their chlldren to an elementary school;

[1] For the credit of Dr. Bouquillon, however, it is just to remark that he only says: "Nor does Cardinal Zigliara dare deny that power [of compulsory instruction] to the state" (p. 27). We must acknowledge that the Doctor, though, in our opinion, he has unconsciously misconceived and misinterpreted those great authors, treats them with a modesty and consideration characteristic of a true scholar. In this regard he contrasts favorably with the author of an article in the *Independent* of June 4, 1891, who treats the same arguments and authorities from a journalistic standpotin.

[2] Philosophia Moralis (Ed. II.). Innsbruck 1886, Pars. IV. c. 2. pp. 733-47.

[3] Auctoritas civilis scholas quidem fundare et a se fundatas dirigere postest; sed per se prohibere nequit, ne cives ipsi scholas etiam publicas erigant; a se ipsis erectas ordinent et dirigant, quin tamen absolutam docendi libertatem concedere possit.

they may, however, be compelled *indirectly* (*per accidens*) in certain individual cases." [1] In a foot-note he remarks in explanation of this thesis:

"In the thesis we *suppose* that the schools in question are not bad, not hurtful to religion and morality; that the teachers of Catholic children are not infidels or Protestants or Jews; that in the schools neither useless matters are taught, nor such subjects as would tend to make the lower classes of society dissatisfied with their social condition; that compulsory attendance at school does not extend over many years, so that the parents are not too long deprived of the assistance of their children. [2]

We abstain from giving the clear and cogent argumentation with which Costa-Rossetti proves the first part of his thesis, since there is question here of his *authority*, not of his arguments, and his excellent work is within the reach of most of those interested in this controversy; but we shall give a few extracts from the corollaries which he appends to this thesis (pp. 744, sq.).

"From these considerations follows:—

(1). "That no sufficient title can be found to establish the right of governments to educate children *in as much as they are citizens*, or to have them instructed in public schools, *in order to make them good citizens;* although rulers should use *other means*—e. g., good government, premiums and distinctions, vigilance for the maintenance of public morality—to promote civic virtues and patriotism (i. e., love of their own native commonwealth).

(2). "That it cannot be shown that the right of *education and instruction* emanates equally *from parental and civic power;* nor that the power has been delegated by the people to the subject invested with civil authority to *teach* and to *compel attendance* at school."

(3). "That *compulsory education* has been not unjustly regarded by some as *intellectual socialism* and *communism*, from which material com-

[1] Spectata lege naturæ parentes ab auctoritate civili per se juste cogi non possunt, ut liberos in scholam elementarem mittant; id tamen fieri potest per accidens in casibus particularibus.

[2] Costa-Rossetti denies the right of the state in the present condition of society to compel school attendance, also in the case in which children are brought up *illiterate*, provided their physical and moral education is not notably neglected, so as to make them utterly miserable. Utrum aliquando tempora futura sint, quibus homines *ideo solum* miseri evadant, quod nesciant legere et scribere, *posteri nostri dijudicent* (p 739).

munism logically follows. For, if civil authority can arbitrarily deal with the most important right of education and of the intellectual culture of its citizens, it may *a fortiori* dispose at pleasure of the right of property and of the material prosperity of its citizens, since material goods are of a lower order. Hence it is not to be wondered at that the socialists of our day are among the most zealous defenders of compulsory education—in order that the minds of men may be predisposed for the socialistic state."

(4). "Hence *compulsory education* has been justly compared with that *guardianship* (known in German by the name of *curatel*) under which certain extravagant parents, who recklessly and viciously squander their property, are, at the request of their relations, placed by the state—with this difference however: that by compulsory education *all are made wards of the state in regard to spiritual goods;* and that without any crime being proved against them."

(5). "That, if the children are to be forced from their parents to be educated *they should also be taken from them to be nursed;* for, if the mind is to be trained by the state, why not the body as well? The bodily strength and health of its citizens are of great importance for the commonwealth—that the state may have good soldiers, farmers, workmen, &c."

In explaning the second part of his thesis, Costa-Rossetti makes this admission seemingly in favor of compulsion:—"*If it is proved* that children are so treated by their parents *that they must necessarily become miserable, unless they are relieved from parental control*, civil authority, in virtue of its office of protecting the rights of its citizens, can and must make provision for their education, and, according to circumstances, must either remove them from their parents or force the latter to send them to a school. *But this can happen only in certain particular cases and accidentally.*[1]

Does this admission justify a *compulsory law?* No; it only vindicates for the state the right, which no one denies, of preventing or remedying flagrant abuses of parental authority and protecting so-

[1] Si demonstratur, liberos a parentibus ita tractari, ut miseri fieri debeant, nisi a potestate parentum eximantur, auctoritas civilis vi muneris tutelæ jurium potest et debet illos educandos curare et, prout adjuncta exigunt, aut liberos parentibus eripere, aut hos cogere, ut illos in scholam mittant. Atqui id tantum in particularibus casibus occurrit et nonnisi per accidens.

ciety from manifestly threatening evils in particular cases. These evils, however, can be remedied without inflicting on society the much greater hardship of universal compulsion. This is the teaching of Costa-Rossetti. We leave it to the reader to judge whether or not he can be cited as an advocate of state education, or compulsory schooling.

4. Fourth on the list of authorities stands the name of *Hammerstein* —a name of no small weight on this subject. A profound jurist and canonist, in his younger days the disciple and admirer of men like Haller, Ahrens, Stahl and Bluntschli, von Hammerstein has been for more than twenty years as a publicist identified with this special question. His valuable writings on this problem are scattered through the volumes of the *Stimmen aus Maria-Laach.* But in two separate works the *Schulfrage* [1] and *Kirche und Staat* [2] (the latter published also in Latin), he has given us a summary of his principles and the arguments upon which they rest. We are indebted to Rev. Father Holaind for an extended extract in excellent English translation from the second work in his prompt and able reply to Dr. Bouquillon. [3] We shall give the salient passages from Father Holaind's translation and supplement it by an extract from the *Schulfrage:*

"The parents have the *obligation of education and all the rights of education before the Church and the state*, and in this sense, that even before the existence of any state or Church the parents could and ought to educate and instruct their children, and, if need be, send them to school. Let us suppose that neither is yet existing. Should the children then born live without education until the state should arise, or until a Church should be founded? Or could any one else be designated that should educate and instruct the children?"

"The parents, therefore, have *the right of excluding the interference of all others* who might wish to educate their children, or in some way to hinder them in the performance of their duty, by *forcing on them methods* which to the parents seem inconsistent with the proper kind of education: without this privilege, their right would be a mockery. However, one condition is to be observed: parents have the right to

[1] Freiburg, Herder (II. Ed.) 1877. [2] Freiburg, Herder 1883 (Latin 1884).

[3] *The Parent first:* an Answer to Dr. Bouquillon's Query, &c., Benziger Bros., New York.

exclude others, *unless such others can prove* that they also have some right over the education of the children."

"In our times the state is that agency which attempts to interfere in the education of the children by controlling the schools. Let us examine with what right it does this. We cannot deny that the state or commonwealth has some rights *in regard to* the schools and the education of children. It is the state's duty to *supply what is wanting* on the part of the family. Hence, in the first place, it can *offer means* to parents whereby they may better and more easily provide for their children's education. This the state does by *founding and endowing schools according to the needs and wishes of the parents*. But with regard to *endowments*, or any other form of assistance, the state has *no right to give them*, unless they contribute to the *public good*, to which they certainly do not contribute if sufficient provision has already been made for the schools in other ways, as, for instance, through the medium of religious orders."

"In the second place, the state may *supplement the family* in educating the children, if need be, *compelling negligent parents* to fulfil their obligations in this regard."

"In the third place, the state may so far supplement the family as to *take upon itself the education*, in the case of orphans, for instance or if, for any reasons, the parents themselves cannot educate their children. This, however, supposes that those also are unable to supply the education who, *next to the parents, and in preference to the state*, have the right and duty to fill the place of parents, namely, *relatives*, *municipal organizations*, or the *Church* (where the Church does exist)."

"In the fourth place, the question suggests itself whether, beyond the duty of supplementing the family, the state has a *direct right*, jointly with the family, of educating the children, in so far as to have the right to *compel parents* to send their children to certain appointed schools—those, for instance, under state control; or in so far as to have the *exclusive right* to establish schools; or, in a word, *to educate and to teach;* or finally, in so far as to have the right to *insist upon a certain method* of education, a certain *kind of school*, or a certain *amount of matter*, which all are bound to learn,—matter, I mean, in excess of what is *absolutely* necessary; for to omit this would, of course, be sheer negligence."

Von Hammerstein answers these queries in the negative, defends his

position against the prevailing theories of state education as advocated by Trendelenburg, Stahl, Cousin and Jürgen Bona Meyer, and thus concludes.

"Those repeated and strange attempts to prove that the state owns, jointly with the parents, or even above the parents, the right to educate, and to compel the attendance of children, show clearly that the right cannot be made good, and therefore has no existence. The conclusion is that *the parents hold the right of training and instructing their children as they judge fit and through masters of their own selection, provided that they do not overstep the boundaries of reason:* should they disregard the behests of reason, then, indeed, the state, as the civil superior, may provide for the education of the children." (De ecclesia et statu, p. 181 sq.).

In the special work entitled the *Schulfrage* (p. 6–7) Father von Hammerstein establishes the following thesis which forms the gist of his argument:

"If the state, *contrary to the wishes of parents, and of the Church,* takes into its own hands the education of youth, it commits a threefold crying violation of right."

I. "A *violation of the rights of parents;* for to them, and not to the state, God has confided the children to be educated; of them, and not of the state, God will once demand an account for the souls of the children."

II. "*A violation of that positive right established by Christ;* for the Church, and not the state, has received from Christ the power to educate children and adults to Christian life."

III. "*A violation of the historic rights of the Church;* for before any of the modern states of Europe existed the Church was in the just possession of the right of education, of the elementary schools and of countless other institutions of learning established by itself; and international treaties and agreements have acknowledged and secured to her this right."

This entire work of von Hammerstein (128 octavo pages) consists of the proof and confirmation of these three propositions from reason, from revelation, from positive law, and historic facts and statistics. Any one who is even superficially acquainted with either of these works cannot but be surprised that Father von Hammerstein could ever have been cited in defence of state education.

5. We now come to an authority which Dr. Bouquillon manifestly prizes very highly—*Mons. Cavagnis*, professor of Canon Law in the papal seminary in Rome. Dr. Bouquillon certainly does not overrate this excellent canonist, and we are sincerely grateful to him for making us acquainted with this distinguished author. On examination, however, we do not find that Cavagnis differs in his doctrine on the school question from von Hammerstein, Taparelli, Costa-Rossetti and Catholic writers generally. In his Italian work: *Nozioni di diritto &c.*, published in Rome 1886, he states his doctrine very briefly (p. 220 sq.).

He attributes to the Church the *supervision over all schools*, especially over the *elementary* schools; in which *religion cannot be separated from secular instruction* (n. 362); the right to make *religious instruction obligatory* in all schools (n. 363) as part of the course of instruction; the *right of establishing schools* and educational institutions of her own (n. 364). The pupils of such ecclesiastical schools *cannot be debarred of the civil advantages* attendant on public schools. Either such church schools must be acknowledged by the state, or at least there must be some equitable means (public test) given to such pupils to prove their fitness for the various civil offices (n. 365).

In his Latin work (Institutiones juris &c.) published in Rome 1882 in 3 vols. he devotes over 80 pages to the matter of schools. His treatment is all that could be desired—thorough, comprehensive and exact. One can see, however, in him, as in many other European authors, who treat this subject, that he is struggling with existing circumstances and trying to reconcile things as best he can; and, therefore, he makes all concessions to the civil power that he can consistently with the rights of the Church and with the Christian character of education; and hence we may easily understand Dr. Bouquillon's veneration for him. His sources, like those of all canonists are, of course, positive laws, concordats, rescripts, compromises, &c., that suppose circumstances very different from ours. Our American situation as far as the relation between Church and state is concerned, is *sui generis*, and cannot be judged in the light of any text-book of canon law, however perfect. Orthodox and excellent as is the teaching of Cavagnis, it is inapplicable to our American circumstances. Yet no part of his teaching can be interpreted in favor of Dr. Bouquillon's theory.

According to Cavagnis it is the father's (respectively the mother's)

right and duty (patrisfamilias jus et officium) to instruct his children in the true Christian doctrine (Vol. III. p. 14). Schools (p. 15) are institutions *supplementary* to the family. The secular instruction of children cannot be *separated from the moral and religious*, i.e., from Catholic education (pp. 16. sq.).

This latter proposition he proves very conclusively from reason and from the authority of Leo XIII. in his epistle to the Cardinal Vicar of Rome June 26, 1878, in which His Holiness aptly compares the separation of religion from secular instruction to the division of the child in the famous *judgment of Solomon.*[1]

Cavagnis grants that a separation may be made of the religious instruction proper, from the secular as to time and place, and the person of the teacher (quoad locum, et personam docentis), but insists that the secular education should be imbued with the spirit of religion (spiritu religioso informatam); and that religion should form a part of the programme of instruction. Hence he concludes that the teacher who would not speak of God and of the duties towards Him, would impress false ideas on the minds of his pupils (falso spiritu imbueret suos discipulos). *Natural* and *non-sectarian* (institutionem christianam in genere) religion and morality are not sufficient as being *false* and *incomplete* (p. 24).

Private schools represent the authority of the parents, the *private teacher has no other authority to teach than what he received from parents* (*nullam aliam auctoritatem habet quam receptam a patribus familias*), and this holds also of *colleges* (cum filii in collegio ponuntur); while the religious instruction must in all cases be given under the authority and supervision of the Church (pp. 25–27).

Public schools, according to Cavagnis, are those that are under the direction of civil or municipal authority, which, as long *as they are free, retain their parental character* to some extent (p. 32). The *compulsory public school is a violation of parental right*, though the state and civil authority may coerce and discipline those parents *who neglect their duty* in educating their children (p. 33).

In *public schools*, which, of course, must comply with the lawful de-

[1] It is here that Cavagnis cites the decree of the sacred Congregation, Aug. 17, 1688, referred to by Dr Bouquillon (p. 13) in proof of the early existence of secular schools —but for a widely different purpose, viz., to prove that religious instruction must go hand in hand with secular teaching.

mands of the Church (viz., that Catholic schools should be strictly Catholic) the teachers of Christian doctrine must be approved by the Church (ibid.). The same rule holds for middle and higher schools; while clerical seminaries can in no wise be subject to civil authority (pp. 38–50).

The Church has *not the exclusive right* of establishing and conducting schools: "*No one ever denied to parents the right to educate their own children, nor to the civil state the right to establish schools*—Patribus familias facultatem suos docendi et statui civili scholas instituendi nemo unquam denigavit"[1] (p. 53).

In regard to *freedom of education* Cavagnis says: That private individuals have the right to open schools, but under the general supervision of the state; that is, the state has the right and duty (1) to see that, while individuals (or corporations) wish to aid the development of human perfection, they do not disturb the juridical relations; (2) to punish or repress in case of perturbation (of those juridical relations), or of proximate danger of such disorder; (3) in default of private individuals or corporations, to take all measures suitable for the gradual perfection of society according to its concrete circumstances. And he thus concludes: "Therefore the state establishes schools when private schools are wanting either wholly or in part (and they will always be wanting in part: since it is hardly possible, as a rule, that there should be a sufficient number established for the poor by private charity); .....Moreover, the state will take care that in private schools there be no disturbance of the juridical order; and, if such should happen, to repress it."[2] (p. 64).

The result of this concession is, therefore, that the state can establish schools in default of private persons or corporations—a default which will often occur; and that it can prevent or repress disorder (e. g., hazing, theft, public immorality), which we all admit.

The opinion that the *office of educating* (munus docendi) *belongs to*

[1] Sauvé quotes these golden words in CAPS. The writer in the *Independent*, above referred to, quotes only the second part of the sentence in favor of the state or public school, ignoring the context of Çavagnis himself, and of Sauvé. Dr. Bouquillon himself has recourse to the same stratagem in *Rejoinder*, p. 31.

[2] Ergo scholas instituit status cum deficiunt vel ex toto vel ex parte scholæ privatorum (et ex parte semper deficient, cum pro pauperibus vix possibile sit adsint umversim charitate privatorum constitutæ): deinde invigilabit ne in scholis privatorum perturbentur relationes juridicæ et, si id fiet, reprimet." Cf. Bouquillon, p. 19.

the state (esse munus publicum) like that of *judges* (sicut illud judicum) is manifestly *false* (patet falsitas) according to Cavagnis [1] (ibid.).

"[The right of teaching] is a *private right which cannot be violated by the state*, but only moderated or, *in extraordinary cases*, limited or suspended when the public weal demands it" (ibid.).

The state can prescribe certain *preventive measures* to test the fitness of teachers; which means, however, should not be onerous, and *are not always expedient* (p. 65). The private teacher is *not a state functionary; nor can he receive his authority to teach from the state, but only the recognition of his fitness* (p. 66). Hence it follows that the Church has at least all the rights of private individuals and corporations in regard to education; nay, the Church should enjoy greater confidence than private persons on the part of the state—abstracting from ecclesiastical immunity, in virtue of which clerics have not to answer before a secular tribunal (p 68).

But the Church has also a *special right* and title to establish schools even in a *normal state of society* in virtue of her mission to teach the religion of Christ (pp. 69–72). She has also the right to open and conduct boarding schools (p. 73–74).

The Church has in our days a *still more special right and duty* of establishing her own schools in the present *abnormal state of society*, for the preservation of the faith (ibid).

As regards the *civil effects* of education the state has the right to *test the fitness* of its own public officials: also the fitness of certain professional men; as physicians, druggists, &c. (p. 78–79). The state *cannot*, however, *compel the candidates of such offices*, or professions, to frequent *its own* schools.

Such is in substance the teaching of Cavagnis. Now, from all his concessions which are, we believe, the utmost that could be made to the state, nothing follows for the main theory of Dr. Bouquillon—that the state has the *special and proper right to educate as it has to judge and to govern* by its functionaries. Nay, Cavagnis expressly teaches the contrary—that this right is not inherent in the state. The only point in which Cavagnis seems to favor Dr. Bouquillon's theory is in regard to the testing by the state of the fitness of teachers—the exercise of which right he himself acknowledges to be often inexpedient

[1] Dr. Bouquillon (p. 12) seems to teach the contrary. Strange that Sauvé, who, for the rest follows Cavagnis very closely, should also cling to the opposite theory.

and always unnecessary, and, therefore, vexatious in the case of Church institutions, in which the state should have full confidence. Besides, it must be borne in mind, as we have already remarked, that Cavagnis is contending with existing circumstances, not as we are, with innovations on the part of the state.

6. It was at this stage of our writting that we had the good fortune, after much trouble, to get a copy of the work of an author who evidently enjoys the highest authority with Dr. Bouquillon—we mean *Monsignor Sauvé*[1] who was papal theologian at the Vatican Council, and some time Rector of the Catholic University of Angers in France. He is a writer of genuine merit—learned, broad-minded, and wholly devoted to the interests of the Church and of religion. His orthodoxy and loyalty to the Church cannot be questioned. Had we been able to possess ourselves of this work sooner it would have saved us a great deal of trouble; it would have thrown much light on the dark points of Dr. Bouquillon's brochure—his somewhat tortuous disposition, his method, the many apparent inconsistencies, the meaning and import of most of the authorities he quotes; but we had the bad luck to find this work last of all, though it is the very first work the student of Dr. Bouquillon's pamphlet should read.

The veneration of Dr. Bouquillon for Sauvé goes to the utmost limit of literary propriety. He adopts the same division, the same method, uses the same authorities and even translates many passages almost *ad literam*—and sometimes we must confess, without due discrimination. Sauvé has the same fundamental errors, or inaccuracies, which we have pointed out in Dr. Bouquillon's teaching—the right of every individual to teach, (p. 278 sq.), the same defective definition of education (pp. 236–8), the same theory that the right of the state to teach is implied in the right to govern and judge (cf. p. 254).

The fault we have to find with Dr. Bouquillon's treatment of his revered friend Sauvé, however, is not so much for what he has taken from this excellent author, but rather for what he has omitted. Had he given us Sauvé's treatise *pur et simple*, with all the faults we have referred to, he would have conferred a favor on us and a benefit on Catholic education; but he has given us Sauvé's concessions to civil government without giving us Sauvé's demands for family and Church, without giving us Sauvé's uncompromising conditions.

[1] Questions religieuses, &c. (2 ed.). Paris, 1888. c. 10. p. 236, sq.

Lest we should be accused of unfairness to Dr. Bouquillon we shall extract a few passages that will show clearly what is Sauvé's teaching as regards the main issue.

"The *Church* has the right to establish universities, colleges, schools of every kind, in which she may teach by professors sufficiently capable, *not only in the sacred, but also in the profane sciences*" (p. 240–41).

"*One of the duties of civil legislature is to acknowledge the right of the Church* in this matter [of education], instead of hindering her exercise of that power which in the designs of God is called upon to promote it to the utmost of its power, according to the circumstances of time and place" (p. 243).

"*Parents* have certainly the right to educate their children—a right which *the state cannot suppress or render inefficacious* at pleasure, nor control arbitrarily. Before the civil authority, *domestic authority has natural rights of which the state cannot lawfully deprive it*" (p. 423).

"The state *cannot* without flagrant injustice arbitrarily *take the place of the parents* to dispense to their children either the physical or the intellectual and moral nourishment. The Catholic Church does not permit that children be taken from their parents against their will, even in behalf of their eternal salvation, for the sake of baptizing them" (p. 245).

"Parents may not directly or indirectly *be forced to send their children to any school*, if they wish of themselves or through others to give them a suitable education. They have also the right to demand that where schools are supported at the public expense they respond to their just demands from the Catholic standpoint; or at least that the state support Catholic schools where they may send their children in all security."

"*The state has no right to teach error*, nor those truths which it is unlawful to communicate to others [e.g., Lord Byron's poems or certain parts of physiology to children] (p. 255). The state which makes a profession of *religious indifference or hostility to Catholic doctrine is not fit to educate children and youth*, since it is the will of the Creator that these stages of life should be instructed according to the divinely established order. But the instruction given by teachers who are either indifferent or hostile to the true religion, if not essentially perverse, is, at least, very dangerous, even though the teacher (a thing

difficult to conceive) should altogether abstain from every attack, direct or indirect, on religion."

Mons. Sauvé (p. 257 sq.) emphatically condemns the so-called *neutral* or *mixed* or secular *schools*, and proves his position from the decrees of the Church, the letter of Pius IX. to the Archbishop of Freiburg, July 14, 1864, the Syllabus, and the Instruction to the American Bishops, June 30, 1875. He condemns state monopoly in these words:

"The government which against the rights of the Church and of the family, contrary to the lawful demands of the citizens and the interests of society itself would exercise a monopoly of the education of children and of youth would *commit an unjustifiable act of tyranny*, which can be defended only by mere sophistry" (p. 262).

"If a commonwealth, composed of different religious denominations (divisée de croyance), and without any state religion, admits freedom of worship, and if the government of such commonwealth cannot, or will not, give a Catholic education, *it must in that case abstain from teaching altogether.* The establishment of a teaching body in the name of such a government would be *irrational and unlawful;* for without unity of doctrine a body of teachers is incapable of exercising the two functions of education which consist in forming and nourishing the intellect with truth, and directing the will towards the good" (p. 264).

"The state *has not the same right to teach as the Church and the family*, both of which have a right based on *absolute duty*, while the state has but a *relative duty* to teach—*a duty which does not exist except when the education given by the Church, by parents, and by individual teachers is insufficient* from the standpoint of social interests" (p. 268).

In summing up the rights of the state in regard to education Sauvé says (p. 277):—

(1.) "The state has not the exclusive right to educate and cannot exercise this right *except in conformity with the order established by God, respecting the rights of Church, family and individual.*

(2.) The state has the right to teach all that is useful and good to communicate to others, *provided it conform to the superior laws which bind it* [among these laws one is to respect the rights of Church, family and individual].

Again, he cites and adopts the words of M. Chesnelong:

'"The state has the right for a social interest, and in the case of the insufficiency of free education [i.e. by the Church and individuals] and also the duty to give an education at the public expense under the *threefold condition*—that it offer such education to all *without forcing it on any one;* that, besides this state education *free* (and good) *education may be carried on without hinderance ;* and, finally, that the public education *respect the conscientious convictions* of the subjects" (p. 277–78).

"The state of itself can exercise *no right over schools established by the Church:* for civil power has no right over things sacred. But *the Church can grant to the state certain faculties by way of indult or concordat;* or she can *tolerate* that some of her rights are not entirely acknowledged and exercised" (p. 308).

"The state has *not* such authority over education that it can at pleasure *substitute itself* for the family in the functions of an educator, *penetrate* into the sanctuary of the household (except in the case of crime or misdemeanor) and arbitrarily *control* the education which is given in the family."

The parents have the right and duty to *give to their children either by themselves or through suitable teachers that education which may seem necessary or useful;* they have, likewise, the right to *supervise the instruction given* to their children" (p. 309).

What, then, is the teaching of Sauvé? Abstracting from the few false or inaccurate notions already noticed it is the teaching of Taparelli whom he closely follows, and frequently cites; the teaching of von Hammerstein, Costa-Rossetti and Cavagnis, whom he also quotes with approval. It is also the teaching of Dr. Bouquillon? It is; and it is not. It is Bouquillon's teaching in as much as the latter takes most of his matter and his arguments from Sauvé to establish the power of the state; it is not Dr. Bouquillon's, in as much as he sadly minimizes, or rather disregards, the rights of Church and parents so staunchly defended by Sauvé, and only seeks to magnify the civil power.

The impression we received from reading Dr. Bouquillon's pamphlet was that the essay was first written exclusively on the rights, duties and authority of the state; and that it was only on second thought that the author decided to introduce the individual, the family and the Church in order to give the work some show of complete-

ness. When we read those stern and uncompromising conditions with which Mons. Sauvé limits the civil power; when we consider his fearless demands for the freedom of the Church and of the family, we doubt very much whether he would sanction this use of his excellent work even by his most admiring friend and disciple These were the very parts of Sauvé's valuable treatise on the right of education which would have been most timely. A plea for state rights and government interference was uncalled for.

7. There is one more authority upon which Dr. Bouquillon evidently lays great stress. This is not the authority of a single theologian, but the collective authority of the *papal theologians of the Vatican Council.* He says (p. 14–15):—

> We will close this list of authorities by giving the opinion of the theologians commissioned by Pius IX. to prepare the subject matter of the discussions of the Council of the Vatican. They intended to proclaim the right of the Church to watch over the education, religious and moral, of Catholic children, but at the same time they most explicitly recognized the right of the state to educate.
>
> Here are the words of the proposed *schema* (?) on this point: "Non negatur jus potestatis laicæ providendi institutioni in litteris ac scientiis ad suum legitimum finem et ad bonum sociale, ac proinde etiam non negatur eidem potestati laicæ jus ad directionem scholarum, quantum legitimus ille finis postulat." [The right of the civil power to make provisions for instruction in letters and in the sciences for its own legitimate purpose and for the common good is not denied [i. e. in the schema]; and, therefore, this same civil power is not denied the right to the direction of schools, as far as that legitimate purpose demands].

For the benefit of those who may not be able at once to appreciate the value of this argument we will here note: first, that this *schema Vaticanum* is not a decree, nor collection of decrees, of the Vatican council; it is only a collection of points of doctrine, &c. that were prepared by a committee of theologians appointed by the Pope, to be submitted to the council for discussion—to be accepted, rejected or modified, as the Council would deem proper. This *schema*, although of great theological value, has therefore, no special sanction of the Pope, or of the council, or of the Church, more than any collection of theses on theological matters drawn up by, and representing the teaching of, any learned body of theologians—say, the theological faculty of a university.

Secondly, the words cited by Dr. Bouquillon *are not taken from the schema itself*, but only to be found among the voluminous and elaborate notes with which the schema was accompanied (note 47). Now,

what is the import of this note? This note is *merely negative* and is not intended to express any positive opinion on the matter in question. It only states what is *not proposed for definition,* but has been wisely omitted, in that passage of the schema (c. xv.) to which this note refers. The theologians in this note will only remark for the benefit of the fathers of the Council, that the question in regard to state rights in education will still remain *an open question.* Dr. Bouquillon should have made a distinction between the *schema* itself and the *note,* and should not have quoted this remark as part of the *schema.* It makes a great difference whether these words are intended by the learned theologians to be proposed for definition, or simply to express what is not intended to be defined. The reference in foot-note (p. 15) is not sufficient to prevent a misconception in the popular mind.

It might seem strange that Sauvé, who was himself one of the committee appointed to compose the *schema* and the *notes,* makes no mention of this note, which was certainly familiar to him and no longer an official secret when he published his work (1888). He evidently knew that it had no weight as an argument. To Dr. Bouquillon, it seems, is due the entire merit of bringing this brand new weapon into the field. Stretched to its utmost, however, this note would ascribe no more power to the state than is granted by Catholic theologians generally. So much on the note.

Now what does the *schema* itself teach? It rejects in the first place, in the strongest terms the errors already condemned by the *syllabus,* and other papal utterances.

"Among the violations of the most sacred rights perpetrated in our age, to infect the nations with error and currupt Christian morals amongst them, that one is the most pernicious which insiduously contends that all schools are to be submitted to the the secular power so that the authority of the Church to provide for the religious instruction and education of Christian youth may be altogether thwarted. Nay, men have gone even so far as to assert that the Catholic religion should be altogether excluded from public education and that the schools should be merely scientific. Against this curruption of sound doctrine and morals, from the very purpose of the Church founded by Christ—to lead men through salutary faith and discipline, by her teaching and her guidance, to eternal life—all

must acknowledge the right and duty in virtue of which she [the Church] carefully provides (pervigilat) that the Catholic youth is rightly educated, above all in true faith and pure morals."

Those are the words which we would have expected Dr. Bouquillon to have cited for the benefit of American Catholics, not the minimizing note (47). But the Doctor in indicting his pamphlet was too jealous of the interest of the state and thought the Church would look out for herself.

The language of the *schema proper* is clear, forcible, and uncompromising. Yet there is hardly any doubt, that, if the matter had come to be discussed and defined the definition would have been still more comprehensive. This is manifest from the postulate submitted to the council by Mons. Greith, bishop of St. Gall, April 5, 1870, demanding the condemnation of the so-called *mixed school system.* This system generally known in Germany and Switzerland under the name of *simultaneous* schools, consists in this, that the pupils of different religious denominations frequent the same school, have the secular instruction in common and the religious instruction separate. These schools are manifestly, from a Christian and Catholic standpoint, preparable to our so-called non-sectarian system. And yet the Bishop in his postulate describes them as seats of moral contagion, which infect the minds of youth with the poison of impiety, or of indifferentism. [1]

Hence he concludes that the council cannot pass them over in silence, and demands: (1) that the council *condemn* mixed schools, of whatever kind or grade; (2) that it earnestly *exhort* the bishops, parish priests and parents—the *bishops*, to fight with all their power against such schools; the *parish priests*, to try to avert the Christian youth from them; the *parents* never to intrust their children to them; (3) that it *admonish the civil magistrates*, to restore to the Church the schools of Catholic foundation taken from her by violent and unjust legislation, and to grant to Catholics that freedom of instruction *which, for the rest, paternal authority can justly claim.* [2]

[1] Sed *nil* in eo [schemate] dictum est de *scholis mixtis*, quæ licet sicut quædam pestis puerorum mentes vel impietatis vel indifferentismi veneno inficiant, ubique locorum passim eriguntur et catervatim a catholica juventute frequentantur.

[2] (1) Scholas mixtas cujuscumque generis ac ordinis reprobare. (2) Episcopos, parachos et parentes serio adhortari; utpote *Episcopos*, ut pro posse suo contra ejusmodi

That the demands of the bishop of St. Gall were in this case altogether in keeping with the spirit of the Church and the teaching of the Holy See may be concluded from the words of Leo XIII. to the French bishops in the letter dated Feb. 8, 1884: "The Church....has always openly condemned the so-called mixed or neutral schools."[1]

These are the genuine sentiments which prevailed at the Vatican Council and which would have, doubtless been proposed in the final definition, if the question had come to a discussion and decision. But from Dr. Bouquillon's book one who knew nothing of the Vatican Council might think that the theologians were preparing, and that the fathers were ready to approve, an eloquent plea for governmental rights in education.

We dispense with the examination of the second category of authors cited by Dr. Bouquillon as such of whom only "mention must be made," and take for granted that whatever authority they have is against the Doctor. Should he, however, claim that these authors also sustain his position, we are prepared to take the trouble of examining them for the benefit of all interested in this question.

It would be an easy task to establish a *consensus* of Catholic writers on this point, if time and space permitted. For the present, however, we shall only refer the reader to Judge Dunne's learned argument in the Quigley case before the circuit court of Ohio where he gives an extensive, though by no means complete, list of authorities "in support of the proposition, that under the natural law control of the education of the child is a parental right, which the state may not arrogate to itself."[2]

IV. Dr. Bouquillon's Method.

The Doctors's introduction commends itself by its scholarly simplicity and directness. He says:—

We reduce the subject matter of our paper to the following four questions: *right* to educate, *mission* to educate, *authority* over education, *liberty* of education. Though

Scholas militent; *parochos*, ut Christianam juventutem ab eis arcere studeant; *parentes*, ne pueros suos ejusmodi scholis unquam committant. (3) *Magistratus civiles admonere:* ut scholas Catholicæ fundationis earumque facultates Catholicis iniqua vi et lege subtractas restituant, *liberamque puerorum* instructionem ipsis concedant; quam paterna utique potestas jure exigere potest.

[1] Ecclesia....semper, scholas quas appellant mixtas, vel neutras aperte damnavit.

[2] (Compulsory Education, Catholic truth Society St. Louis 1891, p. 34. sq.).

these four aspects of the educational question touch at many points, we prefer to treat them separately. This plan may force on us some repetitions, but in compensation, it will enable us to avoid the ambiguities and confusion that too often involve in darkness this important subject. We will examine these four questions from the point of view of the *individual*, the *family*, the *state*, the *Church*.[1] (Italics ours).

It was a veritable puzzle to us, however, how and why Dr. Bouquillon could pitch on such a division of his subject; and how such a disposition could contribute anything towards avoiding "ambiguities and confusion." This division seems to us to produce "confusion worse confounded." First of all, we are unable to see how the Doctor could separate *right* and *authority* and make them coördinate parts, whereas every thinkable authority is necessarily a right, though every right may not be properly termed an authority. Hence it is that the author himself has been unable to keep these two points separate though he did endeavor to draw a line of demarcation. He says (p. 11-12):—

"The right of teaching, as far as the state is concerned therein, means [the right of] establishing schools, appointing teachers, prescribing methods and programmes of study: the state teaches in the same way as it governs and judges, viz., through delegates fitted for such functions."

The *authority* over education is thus defined (p. 21):—

Authority over education, or the control of education, must not be confounded with the right to teach. The right to educate, being, as we have defined it, a moral faculty to impart to others those things which one is fit to impart licitly and usefully to the end of forming the mind and heart, belongs to whomsoever has the fitness required. Authority over education is the right of watching over, controlling, and directing education. This authority belongs to him or to those who are vested by natural or positive law with the powers required and sufficient in the premises.[2]

When we come to examine the various functions of this *authority* or control on the part of the state we find that it very nearly coincides with what has been asserted under the heading: *the Right of the state to Educate:* viz., the right of "overseeing the education" (p. 23), of

[1] Nous verrons successivement si l'Eglise, si les parents, si l'Etat, si les simples individus et les associations peuvent revendiquer ce droit, à quel titre et dans quelle mesure. Ce sera l'objet des paragraphes suivants. Sauvé, l. c. p. 238.

[2] Le pouvoir ou l'autorité sur l'enseignement ne doit pas se confondre avec le droit d'enseigner. Le droit d'enseigner, en effet, consistant dans la faculté morale d'apprendre à d'autres ce qu'on est apte à leur communiquer licitement et utilement pour former leur esprit et leur cœur, appartient naturellement à quiconque possède cette aptitude. Le pouvoir sur l'enseignement n'étant autre chose que le droit de veiller sur l'enseignement et de le diriger d'une manière normale, ne compete qu'à celui ou à ceux qui sont investis par le droit naturel ou par le droit positif d'une autorité suffisante à cet égard. Sauvé l. c. p. 288.

"testing the fitness of teachers" (pp. 24–27), of "compelling parents" to fulfil their duty in regard to their children, of prescribing a certain "standard" or "minimum" of education (pp. 27–29). Why these functions should be classified as authority or control, while "establishing schools, appointing teachers, prescribing methods and programmes of study" as above described (p. 11–12) are but rights, is not patent to the reader. We can see no reason for the adoption of this division between the right and authority of education except in the mind of the writer; who, by the way, in this point, as in many others, goes a shade too far in his literary appreciation of Mons. Sauvé, who happens, in our opinion not luckily, to have pitched on the same division. [1]

It was a bad improvement on his master, when Dr. Bouquillon headed the second part of his pamphlet; *The Mission to Educate* (Sauvé uses *devoir*); for a mission signifies a duty imposed in virtue of a positive charge or mandate. This was also bad policy from Dr. Bouquillon's standpoint; for, if education is a mission, where is the *mission* of the state to educate? The Church has a mission in virtue of her foundation; parents have a mission by nature itself, by positive divine command (Gen. i, 28), in virtue of the sacrament of matrimony, and by the laws of the Church; but where is the mission of the state?

In the subdivision of his subject Dr. Bouquillon reverses the order followed by Mons. Sauvé. The latter has the Church, the parents, the state, the individual; Dr. Bouquillon, the individual, the family, the state, the Church; The Doctor himself, however, feels the inconvenience of this division; for after the first part he dismisses the "*individual*" altogether, giving him neither *mission*, nor *authority* nor *liberty* to educate, satisfied with barely vindicating for him the *right* to educate; he treats *in globo* the last point, *Liberty of Education;* which he defines thus:—

And now were we to define in what consists true liberty of education, that liberty which is the honor of a people, worthy and capable of self-government, we should say

[1] Sauvé l. c. thus divides his entire subject: Art. I. Du droit d'enseigner. Art. II. Du devoir d'enseigner. Art. III. Du pouvoir ou de l'autorité sur l'enseigement. Art. IV. De l'application des vrais principes sur l'enseignement. The last article of the French Monsignore has been omitted, probably because the writer had decided not to make any practical application, or because the application did not suit his purpose; he compensates us, however, for this loss by the insertion of a section on the liberty of education.

that it consists in the absence of all useless obstacles to the communication of truth on the part of individuals, families, associations, of all those in a word, who are fit to teach. This liberty, thanks be to God, exists in the United States, nowhere so wide and sacred.

We take no exception to this definition of the liberty of education and we thank God with Dr. Bouquillon that we have this liberty in the United States. We have thus far the liberty of educating our own children according to our own convictions, because American common sense has always vindicated the principle of parental right as against state interference, whatever theorists might think, and write, and speak to the contrary; and we have little fear that America will swerve from this principle. For if Americans have inherited anything praiseworthy from those they love to call their Anglo-Saxon forefathers it is the principle that every man's home is his castle; and to the home, that is, to parental authority belongs, in the very first place, the education of the young. The idea of state education is not American; it is an exotic growth, which will hardly thrive in this country. Americans, we hope, will always be so jealous of their personal and domestic liberties that they will shrink from putting them into the hands of commissioners and superintendents of education, or of school boards and school teachers. Thus much only we would say to Dr. Bouquillon and his advisers: If this priceless boon of liberty exists in the United States, why not leave good enough alone? Why invite state interference? Why labor to establish a principle which, if once admitted, necessarily leads to educational tyranny, to state monopoly, to thraldom worse than Spartan? Let us not, however, exaggerate our freedom of education; it is not an unmixed good to have the freedom of educating our own children and the duty of paying for the education of our neighbor's children besides.

Here we would fain bring our investigation to a close, but we must still crave the indulgence of our readers and consider —

V. The Details of Dr. Bouquillon's Procedure.

1. We have already pointed out that Dr. Bouquillon proceeds from a defective definition of education which leads him to various false conclusions—e. g., that every individual or corporation has the right to educate, and, consequently, that the state has the right to educate. We have shown that his argument in favor of state education is fallacious;

we have proved that his authorities do not sustain him. We also adverted to the fact that his treatment of the rights of the family and of the Church is very deficient. Herein the Doctor most grievously fails, but more by omission than by commission. In fact, it would almost seem as though he undertook to treat the rights of parents and of the Church for the sole purpose of showing us that they are not paramount, and to take occasion to remind us that the state has also its say in the education of our children.

a. Thus (p. 10) after quoting St. Thomas, Taparelli and Leo XIII. to prove the absolute, inalienable and indefeasible right of parents to educate their own offspring as against state and even Church (in case of infidels), instead of drawing the conclusion that is evidently contained in the premises he goes on to remind us that this right of parents is not "absolute, unlimited, independent, but subjected to the control of authority, civil and religious." Now, if by this control or supervision, as far as the state is concerned, he would understand the control or supervision which the state justly exercises over other external domestic affairs we are all at one with him, and his remarks are superfluous. For as civil authority can, and ought to, protect the wife who is ill-used by her husband, so it can, and ought to, protect the child, who is evidently brought up for misery, to be a nuisance and a burden to the community. But if this right of control or supervision should imply the right to interfere in the education itself further than to offer facilities and inducements, we say that the state oversteps the limits of its power and arrogates to itself rights it cannot prove, consequently, rights which it does not possess; for a right that cannot be proved is no right.

b. To the *mission* (i. e. the duty) of parents to educate, the Doctor devotes little more than half a page of his pamphlet (p. 17). But in those few lines he makes the suicidal concession that "the mission of parents is to *form men* for the Church and the state;" and that "evidently this formation implies the development of the *physical, intellectual* and *moral* faculties" (Italics ours). From this mission, he admits, that the right of parents to educate "mainly springs." Therefore, according to the Doctor's own admission, the parents have the right and the duty to superintend the physical, intellectual and moral (i. e. the entire) education of their children. But if the parents have the right to superintend the entire education, what, then is left, to the

state in normal circumstances, but to offer facilities, &c.? Then the Doctor goes on to confirm these statements by the passage above cited from Taparelli, in which the Roman philosopher teaches that "the parent has the obligation of instructing the child and attending to his instruction *until* the day when the *reason of the youth is matured....until the child is nearly as well developed as the father.*" Where, then, does the Doctor leave room for the state to step in and contribute its *quotum* to the education of the child?

c. To *parental authority in education* the Doctor gives not quite a page of his valuable space (p. 22). But here again he admits all that is desired to prove that the parent, in normal circumstances, has the right to control the education of his child to the exclusion of all others.

Parents have authority to regulate, direct, and control the education of their children. They may *teach* their children *themselves* or get them taught *by others;* they may *choose the masters* to whom they confide them, *determine the sciences* they wish to be imparted to them, *the means of correcting them.* Other individuals, associations, municipalities, and the state should take account of the wishes of the parents in the organization of schools; *for the father can never lose control of the education of his child.* (Italics ours).

The Doctor, after these admissions, proceeds to administer a gentle reminder that "parental authority is subordinate" to higher authority, and quotes a long passage from Charles Perin, which only goes to show that children may "claim from the state that protection which parental authority *might fail to give;* that *at times* they may need defence against the abuses of that very parental authority which should protect them;" that there is a limit to paternal jurisdiction—a truth which no one denies. No one will vindicate the same right or authority to the father of the family in our day as was given to the patriarchs of old, who were invested at the same time with parental, sacerdotal and kingly power. This limitation of paternal power, however, does not regard the work of education as such, but the abuse of paternal authority or the neglect of manifest duties in regard to children. The author, therefore, again goes out of his way to impose restrictions on paternal authority, or to treat us to a mere truism.

As Charles Perin is a writer of the highest authority on social subjects, and has been repeatedly quoted by Dr. Bouquillon, we may be allowed here to give his idea of education, as it should be. We find it well expressed in the words which he adopts from the *Etudes Re-*

ligieuses for March 1874, in the work cited by Dr. Bouquillon.[1] "The perfect order of public instruction which best corresponds to the normal state of society is the following—that the Church alone, actually and juridically, possesses the direction of instruction in all its phases. This order would require that the general supervision of elementary, intermediate and higher schools should be confided to the Church, so that dogma and morals should suffer nothing and nowhere, either in the religious instruction or in the teaching of the profane sciences. It is necessary that we should know and bear in mind that the Church shall never give her consent to renounce or to abridge that sovereign right to direct the entire education of her children, i. e. of all those who belong to her by baptism ; for, the Church, as the Vatican Council declares, has been placed by God as the mother and the teacher of the nations." The Doctor should have treated us to such passages from his favorite authors.

2. The right, mission and authority of *the Church* are dismissed in the same perfunctory manner.

a. The *Right of the Church to educate* is treated in one paragraph of moderate length (p. 16). Here we read :—

> The Church, having received *directly* from God the right to teach revealed religion, is thereby *indirectly* endowed with the right to teach the sciences and letters, in so far as they are necessary or useful to the knowledge and practice of revelation. The right to teach religion comprehends the right to communicate whatever may serve religious education. We do not say that the teaching of profane sciences and letters belongs to the Church by the same title that the teaching of religion does; much less do we say that such teaching belongs to her exclusively; what we do say is, that the right to spread the revelation entails the right to whatever is profitable to revelation. Now human sciences and letters are destined by God to be handmaidens of faith and of the chief among sciences, theology.—This right is a special right, proper to the Church, direct as to revelation, indirect as to other knowledge. – Moreover, if we consider the Church merely as a human association, we cannot refuse to her the natural right to teach the truths she is adapted and fitted to impart to men. Such right belongs, as we have seen, to associations.

In this setting forth of the Church's rights we cannot fail to discover in the distinguished author a lamentable tendency to minimize. We do not claim for the Church the direct divine mission to teach profane sciences, though we do respect the opinion of those who take that view. But we cannot, and Dr. Bouquillon cannot, overlook the *historic right* of

[1] Les lois de la société chrétienne, liv. iv. 1. 2.—Not having the original at hand, we quote from an authorized German translation, Freiburg, Herder 1876, p. 387.

the Church acknowledged by the greatest jurists. The Church, for more than 1800 years, has acted as the teacher and the educator of the nations not only in religious but also in profane sciences. She possesses, therefore, by immemorial prescription, the right to educate also in the profane sciences, not, indeed, exclusively (she never claimed the exclusive right), but free and untrammelled. And this is a *special* right which she claims against all opponents and which has been universally acknowledged at least in principle by the civil authority.

Besides, the Doctor cannot have overlooked the fact that the Church has always claimed the right to the free control of the *elementary education* of all her children, and that this right was safeguarded in all her agreements with the civil power. This is evidently something more than the *direct right* to teach revelation, and the *indirect right* to teach profane science, "in so far as they are necessary or useful to the knowledge and practice of religion." According to the Doctor's teaching the Church would be in a worse condition in regard to education than the state or the village school board ; for the state according to him, has the *special* and *proper* right to educate as it has the right to govern and to judge by its delegates (p. 12), which is certainly not an *indirect*, but a *direct right*. The same might be said in behalf of the authority of any school board or private corporation as against the Church.

b. Again on the *mission of the Church* to educate (p. 20) we are reminded that "the Church has not received the mission to make known the human sciences." "Her duty of teaching human sciences is only *indirect*, a work of *charity*, or of *necessity :* of charity when they are not sufficiently taught by *others* (*?*), *who have that duty* (Italics ours) ; of necessity when they are badly taught, that is, taught in a sense opposed to supernatural truth and morality." It was in this manner that bishops of old "took in hand the administration and defence of cities"—we might add, lead armies, and dictated terms of peace and war. Hence in our day "bishops found schools, colleges, academies, universities"—"a *regretable necessity*" (Italics ours). Did the Church then, we would ask, overstep the limits of her mission when she founded and conducted such educational institutions in past ages without this "regretable necessity?" Did not the Church found most, and conduct all the institutions of learning before the so-called Reformation? Was this always a "regretable necessity," such as that

which urged the bishops of Church to raise and support and lead armies, and defend cities and strongholds ?

In order not to seem to dismiss this subject too lightly the Doctor here gives a side thrust to those who hold that the Church has received the *direct mission* to teach human science. "To assert that the Church has received the direct mission and duty of imparting the human sciences, is to make the Church responsible for the conditions of the sciences, letters and arts among Christian nations. . . . But we think that Christian apologetics should not be handicapped by useless and dangerous assumptions." We said before that we do not hold the opinion that the Church is sent *directly*, in virtue of her supernatural mission, to teach human sciences. But we do assert that she has a *special mission* in regard to human sciences, apart from necessity or charity (for both these come to the same thing), as history shows, and the laws of nations acknowledge. We would add that there is nothing on the Church's record to make her or any of her children blush at the manner in which she has fulfilled this special calling. If we would take Dr. Bouquillon's view of the matter, we would have to admit that the Church in all ages was guilty of intolerable arrogance in assuming a duty which did not belong to her. The state, on the other hand, which, according to the Doctor's views, has the mission, as it has the right, strict and proper, to educate, would have been guilty of the most unheard of negligence in utterly failing to discharge this duty towards its subjects for more than 6000 years; for state education was a thing almost unheard of until within the last century.

c. The same distinction is kept up in defining the *authority of the Church* over education (p. 28–29): "Religious teaching comes *directly* and exclusively under her [the Church's] control, whereas secular teaching, which *directly* is under the control of the civil or domestic authority, depends on the Church *only indirectly* in the name of faith and morals." And to substantiate this teaching the Doctor again quotes the minimizing note (47) to the *schema vaticanum*—minimizing, in as much as it gives only the minimum of the Church's claims—not the *schema* itself, as might naturally be concluded from the context.

This is the doctrine as laid down in the proposed Vatican *Schema* already quoted. "Non asseritur potestati ecclesiasticæ, velut *ex divina constitutione* consequens auctori-

tas ad positivam directionem scholarum quatenus in iis litteræ et scientia naturales traduntur; sed vindicatur ecclesiæ auctoritas ad directionem scholarum, *quantum ipse finis Ecclesiæ postulat;* adeoque asseritur jus et officium *prospiciendi fidei et christianis moribus juventutis catholicæ* hocque ipso cavendi ne pretiosa hæc bona per ipsam institutionem in scholis corrumpantur. Hoc jus Ecclesiæ in se spectatum non minus ad superiores quam ad inferiores scholas extenditur. . . . Cæterum per se clarum est exercitium hujus juris in applicatione ad diversos terminos necessario debere esse diversum." It is the denial of this authority of the Church which is condemned in the 45th and 47th propositions of the Syllabus.

This note (47), as we have before remarked, does not give the positive teaching of the theologians of the Council, but only assigns the limits, or the *minimum*, of the doctrine proposed for definition in the chapter of the Schema, to which it refers. This would have been the place for the Doctor to insert the teaching of the *Schema* itself. Why does he continually, as if shy of the main point, take refuge to this note? Or did he think that the 45th and 47th propositions of the Syllabus were so well known to American readers that it is sufficient barely to refer to them? To supply this omission on the part of the Doctor, we shall here insert them; and, lest some one might accuse us of minimizing, we shall add the 48th proposition.

Proposition 45. "The entire direction of the public schools in which the youth of a Christian state is educated, diocesan seminaries to a certain extent excepted, can and must be apportioned to the civil authority, and that in such a way that no other authority has the right to interfere in the discipline of the schools, the direction of the studies, the conferring of degrees, or the choice and approbation of the teachers.

Proposition 47. "The most perfect state of civil society requires that the common schools, which are open to the children of all classes of the people, and the public institutions in general, which are destined for teaching letters and the exact sciences, and educating the youth, should be exempted from the authority, direction, and interference of the Church, and be subjected to the absolute power of civil authority, at the discretion of the rulers of the state and according to the standard of prevailing public opinion."

Proposition 48. "Catholic men may approve that system of education of youth which is divorced from Catholic faith and the power of the Church, and which regards only, or at least chiefly, the natural sciences and the domain of social life on earth."

These propositions being condemned by the Church their contradictories must be true. Now, as we understand them, their contradictories may be thus summarized:

(1). The state has not absolute power over the schools: in other words, they are not and cannot be mere state institutions, under the sole direction of civil authority.

(2). There can be no legitimate plea for exempting the schools from the authority of the Church, whether they are mere elementary schools, or literary and scientific.

(3). No Catholic can connive at a system of education which has divorced itself from the authority of the Church and the Catholic faith, and has for its object, solely or mainly, natural or secular training.

This is the doctrine of the supreme teaching-office of the Church on secular public schools; from which the reader may conclude in what light those so-called Catholics are to be considered who tell us that the public schools are as good as any else, and that neither they themselves nor their children have ever taken any harm from them—who insist on eulogizing and patronizing the system of secular public schools set up in this country. Those are the things it behoved us to know, and not the *minimum* of authority which the Church must claim over education by *right divine.*

The exercise of the Church's power in various ages is again described in minimizing terms (p. 29).

> In the course of ages the Church has exercised this authority more or less extensively according to circumstances. She has exacted from teachers certain guarantees of religion and piety; in this sense she has demanded a profession of faith from whomever would teach. She has also demanded guarantees of fitness in exacting the licentia docendi already spoken of. She has reminded parents of their strict duty of giving to their children sufficient instruction. She has at times taken severe measures in regard to unworthy parents. In a word she has employed, in view of the spiritual end, means analogous to those used by the State in view of the secular end of mankind.

The Church has done all this; but she has done much more. The learned Doctor here omits what is the most important claim of the Church in regard to education—i. e., the free and entire control of the *elementary schools* frequented by her children also in regard to the secular teaching. This is a right which has always been most jealously guarded by the Church and acknowledged by the civil power. The Church has never yielded this right to any secular

authority. The Doctor cannot be unacquainted with the letter of Pius IX. to the Archbishop of Freiburg, dated July 14, 1864, in which this right is clearly set forth and strenuously insisted upon.

"As common schools have been instituted *mainly for the religious education* of the people, to foster Christian piety and morality, they have, therefore, always deservedly and *with perfect right claimed the whole care, solicitude, and watchfulness* of the Church, above all other educational institutions. And, therefore, the designs and endeavors of excluding the Church's authority from the common schools proceed from a most hostile disposition to the Church, and from the desire of extinguishing the Divine light of holy faith in the nations. Wherefore the Church, *which first founded those schools*, has always bestowed the *greatest care and zeal* upon them, and considered them as *the most important department of her authority and jurisdiction;* and any separation of them from the Church cannot but be productive of the greatest loss to the Church and to the schools themselves. All those who would have the Church resign, or withdraw her salutary *direction of the popular schools*, demand nothing less than that the Church should act *against the behests of her Divine Founder*, and neglect the *most important charge* committed to her of procuring the salvation of men."

This is the demand of the Church in regard to elementary schools. From these demands she never receded in principle, or even in practice. This right she cannot cede because it is most intimately connected with her divine mission. We consider it a grave omission on the part of Dr. Bouquillon to have entirely overlooked this most important right of the Church, which has been always most dear to her.

3. Scant as is Dr. Bouquillon's treatment of the rights, duties and authority of parents and Church, his treatment of those of the *state* is all the more copious. On this point he brings to bear all the treasures of his extensive learning—*nova ac vetera.*

a. The Doctor opens that section entitled: *The right of the state to educate*, with the "impregnable" argument (p. 11–12) which we have above submitted to a separate examination. With this argument, as we have shown, you might prove anything, and, therefore, it proves nothing. The positive arguments which follow (pp. 13 sq.) have no more convincing force.

> We will produce facts and documents to show that all Christian nations have always held this opinion [that the state has the special and proper right to educate]. How astonished Charlemagne would have been had he been told that he had no right to found schools; how astonished the bishops of his time had such a doctrine been put before them! Those very bishops were the men who, in the Council of Toul, exhorted princes as well as the ordinaries of dioceses to appoint everywhere teachers of divine and human learning (p. 13).

Give us Christian princes, in a Christian state, like Charlemagne, princes who are the patrons, protectors and secular arm of the Church, and we shall gladly allow them the privilege not only of founding schools, but also of directing them, appointing teachers, albeit in agreement with the Church in all that strictly appertains to her domain; our councils will also encourage and exhort them to this laudable work; but do not preach to us that secular princes and powers generally have the same right as Christian princes in a Christian state.

According to Father Denifle, the eminent historian of the mediæval universities, we are told, four of the universities of Italy, and five of Spain, had been founded by the *civil authority alone* (ibid). Very true; but who had the direction of those universities? Who filled their chairs? Was it mere state officials? Were those state universities, or were they ecclesiastical institutions? Let us hear the learned historian himself on this point.

Of the University of Naples, which is cited as the first instance of a state-founded university, Father Denifle says:[1] "It has been said that the University of Naples was a *state university;* nay, that it was the first university founded by a secular prince. *Both these assertions are false.* The word state university is intended to convey the same meaning we attach to it in modern times. But in the middle ages there was no such thing as *a state in the modern sense;* we cannot, therefore, speak of *a state university in the modern sense.* It might at most be called an 'imperial or territorial university.'" In those days there was no such thing as a secular state in the modern sense; so there was no such thing as a secular state university. Christian universities, like Christian states, were governed by the combined power of Church and state, the Church, however, having the immediate control.

The foundation of a university, however, we should bear in mind,

[1] Entstehung der Universitäten. p. 452.

neither supposes nor begets, in the founder, the right or duty to *educate*, nor does it make him an educator, as is manifest from daily experience. When one of our millionaires founds a university we do not see that he possesses or acquires the right to educate, or that he deserves the name of an educator. He himself may be untutored, uncultured, ignorant, and unacquainted with even the first elements of the sciences taught in the institution that bears his name; he would make a poor educator; he would be a poor hand to govern a university; he may be intellectually and morally incapable of performing any of the numerous functions, and, therefore, also of acquiring the rights, of education. All the right he has is to the gratitude of his fellowmen. In a similar way we would judge of a sovereign, or a state, that would found a university.

A foundation *per se* neither supposes nor confers any right to educate. By the free bounty of the Church, however, founders have always enjoyed certain rights and privileges in regard to their foundations, e. g., the right to nominate, present, or appoint incumbents for such foundations, benefices, &c.,—always, however, in agreement with ecclesiastical authority; and these rights and privileges in the course of time became positive laws in regard to certain foundations. But manifestly such cases can have little application to the question as it confronts us in this age and country. What are the rights of the non-religious state in regard to the education of Christian (i. e., Catholic) subjects? So the problem presents itself to the Christian philosopher and statesman of our day? This is the question which we would have solved; but with this question Dr. Bouquillon failed to grapple.

What the Doctor relates of the communal schools of Spalatro in the seventeenth century and of the schools founded by Leo XII. in the Pontifical States (p. 13–14) is altogether irrelevant, as both cases suppose the closest union between Church and state.

The Doctor winds up with a remark to which he seems to attribute great weight. "Finally," he says, "we have yet to learn that any Pope has ever declared that the state went beyond its right in founding schools, *provided the instruction be organized in the spirit of Christianity*" (Italics Dr. Bouquillon's). Now, this assertion, which seems so very fairly made, is not altogether unobjectionable. This statement is, in one regard, too restricted: no Pope ever denied the right of secular states to found schools at all, even though, for some reason, the

instruction should not be organized "in the spirit of Christianity; no Pope and, in fact, no man will, for instance, deny the right of the British government to found schools in the East Indies for Pagan Hindoos and Parsees, nor of the Emperor of Morocco to found schools for the education of his Pagan, Mohammedan, or Jewish subjects. Nor would any one deny the right of the states of this Union, under certain restrictions, to establish and support secular schools for the education of the millions of children of its pagan inhabitants. The case is different in regard to the children of Christian subjects; and for this case the statement of Dr. Bouquillon is vague and misleading. What is this "spirit of Christianity?" One will say unsectarian Christianity, such as the pupil may imbibe from Emerson, Carlyle and George Elliot. Another will say bible-reading without note or comment; but Catholics must say—Catholicity with all that belongs to it, i. e., the Church must be *free not only to give the religious instruction full and entire* as an essential part of the programme, *but also to superintend the secular teaching so as to prevent all dangers to faith and morals.* But the American, who, knowing no better, reads Dr. Bouquillon's statement, will argue thus: our public schools are organized in the *spirit of Christianity* in its broadest and best sense. The Popes never objected to such schools. *Ergo* our public schools have the sanction of the Pope; and Catholics who object to them from the standpoint of Christianity would be more Christian than the Pope himself. In our humble opinion, this statement of Dr. Bouquillon is too vague to bear *italicizing* unless he would draw attention to its very broadness and vagueness.

Hereupon follows (p. 14–15) the collective testimony of a number of Dr. Bouquillon's favorite authorities—Zigliara, Costa-Rossetti, Hammerstein and the Vatican theologians. But we have already disposed of these authorities, and have shown that without a single solitary exception they reject the right *special* and *proper* of the state to *educate.*

The Doctor closes this section with the solution of some objections (p. 15). For the benefit of the reader, and to avoid even the semblance of unfairness we shall quote his words at full length.

> At times we have heard serious men deny to the state the right to educate under the pretext that *the state might abuse that right* (Italics ours). This is bad reasoning. The abuse that authority may make of a right cannot destroy the right. You would not deny

to the state the right of making laws, of declaring war, because it may make bad laws, or lead the nation into unjust wars. Not only is such reasoning bad, it is very imprudent. It is true that to-day, more than ever, we must be careful not to attribute to the state rights to which it is not entitled; but neither should we fall into the contrary error and contest the rights to which it is entitled. That would be to deprive the state of powers it may indeed abuse at times, but also might rightly use; it would be to condemn what governments faithful to their mission have done in the past and are doing to-day.

We beg to remind the Doctor that the argument of his opponents against state education is not an argument *ex abusu*. If the state has the *inherent*, *special*, and *proper right to educate*, there is no abuse in the state's discharging this office; nay, it would be a culpable breach of duty on the part of the state to neglect to do so. The state, therefore, in Dr. Bouquillon's admission, might lawfully and *laudably* control the education of every child within its confines; it could consistently divide cities and country places into sections and districts and force every child to go to its own section or district school; it could prescribe programmes of study, qualify, appoint, dismiss, and retain teachers, contrary to the wishes and demands of parents and of the Church; for, on the one hand, the common good has the precedence over that of individuals, and, on the other hand, the Church's right is in many places not acknowledged. In short, as the state justly monopolizes the offices of judges and other public functionaries, why should it not in that case also monopolize the office of teaching to the exclusion of all others. Our argument is, therefore, not from the *abuse* but from the *licit use* of such a right in the supposition that it did exist, or is actually conceded.

We were somewhat surprised to see that the Doctor condescended to take notice of the following objection:—

> It has been said that the state cannot teach, because it has no teaching to give. An absolutely false assertion. *The state has its own doctrines, and must have them* (Italics ours). How otherwise could it make laws? We must, however, admit that the state is not qualified to define and impose religious doctrines. It is from the Church the state must receive such teaching. But the state knows the natural law [?], at least in its fundamental principles, and is bound to secure the execution thereof; and the state certainly knows the rational sciences on which depend agriculture, industry and the arts.

This objection is weak, if not silly; but the answer is still weaker. We were reminded of old Homer's nod when we read it, but we were fully amazed to see that the Doctor took the trouble to copy both

objection and answer almost word for word from his revered friend Sauvé.[1]?

The state assuredly may have *its doctrines*, and had them before now. Sparta had its doctrines; and Louis XIV. had his doctrines; and the French directory had its doctrines; and Oliver Cromwell had his; the communists had theirs; and the anarchists, if they came to rule, would have theirs. If then, the state has its doctrines, whatever they be, and if it is moreover, the God-appointed teacher of the people, as Dr. Bouquillon will have it, who can prevent it from teaching them, and forcing them upon us, whether we will accept them or not. Dr. Bouquillon gives us no solution to this difficulty; but if he had read and copied a few lines more from Mons. Suavé, he would have found us an easy way out of it. "It goes without saying," adds that distinguished writer, "that if the state professes to have no moral or religious tenets, and if it banish religion from its schools, it thereby declares itself incapable and unworthy of teaching, as I have already said."[2]

The Doctor concludes this section (p. 15–16) by a paragraph limiting the right of the state. He says: "The state *cannot set up schools that are atheistic or agnostic.*" But whence can he derive this limitation? If the state has the right special and proper to educate, who or what is to prevent it to set up atheistic or agnostic schools? A purely secular state, call it godless, atheistic, or agnostic, if it sets up any schools, must set up atheistic and agnostic schools. The Church has no acknowledged right against such a state, and the right of the parents must yield where the right of the state begins. Therefore if the state has the right to educate, it can not only establish atheistic and agnostic schools, but also enforce attendance of such schools. Therefore, if Dr. Bouquillon wishes to be consistent he must either simply deny the secular state the right to educate altogether with Mons. Sauvé or give it the full right of enforcing secular education.

[1] Mais, dira-t-on, l'Etat n'a pas de doctrines; et comment enseigner sans doctrines? Je réponds: l'Etat peut et doit avoir des doctrines. Sans donte il ne lui appartient pas de déterminer infailliblement quelles sont les vraies doctrines religieuses et morales; mais il doit les recevoir de l'Eglise, et il peut les enseigner au nom et dans la dépendance de l'autorité ecclésiastique. Sauvé, l. c.

[2] Il va de soi que, si l'Etat fait profession de n'avoir pas de doctrines religieuses et morales, et qu'il bannisse la religion de ses écoles, il se déclare par là même incapable et indigne d'enseigner, comme je l'ai déja dit. Ibid.

If he admits the premises he should not shrink from the conclusion.

b. The weakest part of Dr. Bouquillon's brochure is that on the *Mission of the State to Educate* (pp. 18–20). There is not much to be said on the matter, as far as the state, at least, is concerned. Mons. Sauvé perceived this fact and disposed of the duties, or mission, of the Church, the state, the family and the individual in a few short paragraphs.[1] To fill out the gap, as it were, Dr. Bouquillon here treats us to an excursion on the two-fold purpose of civil power, quotes in illustration the preamble to the Constitution of the United States, and confirms his propositions on the end of civil authority—which, for the rest, no Catholic writer denies—by an extract from a small handbook on civil government by Professors W. W. and W. P. Willoughby, who, on their part, adopt the opinion of Professor Winslow Wilson as laid down in his work entitled *The State.* We are, therefore, not so much concerned with what the Professors Willoughby say as with what Professor Wilson teaches. In his work entitled *The State* we read (p. 666) "It is the object of the family to mould the individual, to form him in the period of immaturity in the practice of morality and obedience... It is the proper object of the state to *give leave to his individuality*...Family discipline must . . . lead the individual. *But the state must not lead; it must create conditions, not mould individuals.*" And yet this same Professor Winslow Wilson who insists so strongly that it is the business of the family to mould the individual, and that this is not the business of the state, in the very next paragraph asserts and maintains that education (i. e., the moulding of the individual) is the proper right and duty of the state. An author who so egregiously contradicts himself on the same page, weighs little in the balance of authority. Yet it is but fair to say that Dr. Bouquillon does not quote the Johns Hopkins professors for anything they say on the rights of education, but for what they have to say on the general functions of government —and that only, we would fain suppose, to pay a compliment to the learned professors, or to give some show of importance to his rather meagre subject—the mission to educate incumbent on the state. We say so because we do not see any cause why the Doctor should make such a parade of authority to prove what everybody grants.

Having thus established the two functions of government—the primary and secondary, or the essential and accidental, or the constitu-

[1] Sauvé l. c. pp. 285–287.

ant and ministrant, as Professor Wilson learnedly calls them, on the basis of St. Thomas, the Constitution of the United States, Mons. Cavagnis and Professors Winslow Wilson, Westel, W. Willoughby and William P. Willoughby, the Doctor proceeds to show that "the state has the mission to educate." To prove this he reverts to the "impregnable" argument which we have already examined in this paper—an argument by which he might as well endeavor to prove that the state has the mission to prescribe a certain regime, and to administer certain medicines to every man, woman, and child within its boundaries from the fact that it has the duty to promote public health. Yet, though the state has the right and duty to promote public health, the Doctor will not thence conclude that it has the duty or even the right to prescribe physic.

Here again the Doctor himself shrinks from the conclusion contained in his premises, and only concludes (p. 19) that "generally speaking, the state is bound to take measures for the diffusion of human knowledge," to which all agree under certain conditions and restrictions. "It can fulfil this glorious mission by encouraging private efforts, helping parents [that need help], establishing schools [where needed and not otherwise provided], appointing capable teachers [for its own special schools, or for other state-supported schools in agreement with parents and with the Church]."

This is modesty put by the learned Doctor. But lest he should seem to anyone unduly to limit the function of the state he closes this section by reminding us that the right of the state extends much farther than its duty or mission.

> Finally, to avoid all danger of misconception, we wish to state that for civil society, as for individuals, right goes beyond duty in this matter. Therefore, while saying that the state should provide instruction, where private individuals fail to do so, we do not mean to say that the state may teach only when and where individuals fail to do their duty. The exercise of the duty of the state is allowable *whenever the state judges the exercise of this duty to be useful* (Italics ours), without being absolutely necessary.

Therefore the power of the state is, after all, arbitrary, and can go just as far as the state, or politicians, or corrupt majorities, may choose to push it. Dr. Bouquillon will say that it must be restricted by the common good, by equity, by the harmony between individual, family, state and Church. But who is to decide what is for the common good? Certainly the state, or the majority; not the family, or the Church. And where is that equity and harmony? The Doctor

may contemplate it in his mental vision; but it is far from being actual; nor can it ever be actual in our circumstances. State and Church with us can only agree to differ, i. e., to live as good neighbors, and go each its own way.

c. The *authority of the state over education* as distinguished from the right to teach, is treated by the Doctor at great length (pp. 23–28). There is question here only of the authority of the state over "schools of human science founded by individuals, families, associations [the Church?]." This general control of the state over education is proved from the end of the state to promote the common good, and from the accumulated evidence of the Vatican Theologians, Cardinal Zigliara, Sauvé, Cavagnis and another Roman canonist Lucidi, who makes, it seems, the same admission as Cardinal Zigliara; or the same appropriate protest that he has no mind to abridge the rights of the state. Now, of this argument, and of these authorities we have already treated, so we dispense with further comment on them.

If the Doctor had only stated the extent of this general control of the state and told us exactly how far he would have it go, whether it is direct or indirect, whether it regards the education itself as such, or only its external aspects and its relation to public order, &c., we might express our agreement or disagreement with him. But, somehow, the Doctor is always shy of drawing lines of demarcation. Here, however, he is pleased to be somewhat more explicit than usual and, contrary to his purpose, proceeds to make "some practical applications" (p. 24).

(1). "The state," he says, "has the right to prevent the unworthy and the incapable from assuming the role of educators." Certainly; if their unworthiness is manifest from public immorality or legal denunciation; in all other cases, however, we hold with Taparelli and Catholic philosophers generally whose authority Dr. Bouquillon prizes highly, that in the case of private schools the state cannot interfere, more than it can in regard to servants, and nurses, or the officials and clerks of an insurance company, or the members and officers of an athletic club.

"But has it [the state] the power to exact from those who wish to enter into the work of education that they give evidence of worth and capability?" asks the Doctor. He answers: "We think that the state cannot be refused the power of exacting ordinary and reason-

able conditions." This answer is rather timid for one who holds that the state has the proper and special right to educate. In his supposition, we would say that the state has the power not only to exact conditions, but to exact whatever conditions it deems proper, such as it exacts for the qualification of its judges and other civil functionaries—therefore, to exact that educators are trained in state schools, according to its own methods, and undergo whatever test it may think proper to require. But we deny the principle—that is, that the state has *per se* the right to educate—as arbitrary, unproved, and untrue; and, accordingly, we deny all the inferences.

We are pleased to see Father Mariana quoted with approval (p.24). But if Dr. Bouquillon thinks that Mariana would allow the teachers of Christian schools to be tested by the officials of a secular state, we must consider him unjust to the age and country in which Mariana lived, and unfair to the character of the Spanish Jesuit himself. Cavagnis, as we have shown, and as may be seen even from the words quoted by Dr. Bouquillon (p. 24), reduces this right of the state to establish a public test to a minimum. He exempts ecclesiastical institutions or schools from that burden altogether, and declares that such a test is rarely expedient. Are there no further means to prove the fitness of a teacher than a public or state examination ? Do the testimonials of teachers go for naught ? Everybody knows that the recommendation of the president or principal of an educational institution is a better warrant for the efficiency of a teacher than a state examination and certificate. Why, then, should the state interfere with the appointment of the teachers of private schools, or with their retention in, or removal from, office so long as no abuse, no public crime or misdemeanor, has been charged against them ? If there is an agreement between Church and state as Cavagnis, Sauvé and others suppose, very well; this privilege on the part of the state may lawfully form an item in the agreement; but neither Cavagnis, nor Sauvé, nor any other Catholic author of name that we know of—not even Dr. Bouquillon—has dared to say in express terms that a secular state has of itself the right to examine the teachers of a private Christian school or institution. And this is precisely the question the public would have an answer to; not, what might be, in conditions which are not soon likely to be ours.

The argument fetched from the functions of the *scholasticus* of mediæ-

val institution and from the fact that the civil authority has the right to confer *degrees* (p. 24–25) is not conclusive. First, the *scholasticus* was an ecclesiastical functionary, as Dr. Bouquillon himself admits; nor does it follow that the state can, in like manner, have its *scholasticus* in every district to examine and to grant license to teachers; for, as we hold, the state has no mission to educate, while the Church decidedly has. Secondly, *the conferring of degrees* has little in common with the office of teaching, or the work of education. For what is a degree? A degree is a testimonial certifying the possession of certain abilities and attainments in an individual. Any one who is competent to judge might give such a testimonial; but, in order that it may have legal value, it must be endorsed by public authority, ecclesiastical or civil. That the state, therefore, should give a legal certificate of proficiency in the secular sciences or letters is no more a proof of its right to examine all teachers than the fact that it can grant a license to a pilot is a proof that it has the right to test the ability of all seamen. This is all the more the case in our times when degrees (doctorate, licentiate, &c.) do not, as in ancient times, confer any authority to teach, but are simply legal certificates of proficiency.

(2). Dr. Bouquillon now comes to the question of *compulsory education* (p. 25).

> The state has authority to see to it that parents fulfil their duty of educating their children, to compel them, if need be, and to substitute itself to them in the fulfilment of this duty in certain cases. In the use of this authority the state does but lend a hand to the execution of the natural law. It forces the parents to fulfil a duty that binds them most strictly, it protects the child and safeguards his future, it removes from society most serious perils.

We have little fault to find with this form of compulsion, if the Doctor would understand it to be applied only to particular cases in which flagrant abuses are manifest, when the natural law is evidently violated; and if it be not enforced by vexatious laws. To this kind of compulsion, authors generally do not object; and the words of Mariana, Taparelli and Charles Perin cited in proof do not justify further compulsory measures. Such is also the teaching of von Hammerstein, Costa-Rossetti, Sauvé, Cavagnis, Cathrein, Stöckl, Joseph Rickaby and many other Catholic authors. So far, therefore, we have no quarrel with Dr. Bouquillon, if he understands compulsory education or instruction as these authors do, but the Doctor is

careful not to tell how far he would have compulsion extend. According to his principle that the state is strictly an educator he should go "as far as who goes farthest." But Dr. Bouquillon has the virtue of being illogical; or he fears the imputation of "liberalism," as would appear from a remark to his recalcitrant readers (p. 26): "We have deeply at heart to remark most emphatically right here, that the above named writers [he means Cavagnis and Sauvé, and indirectly himself] have a reputation for orthodoxy so well established that no vague and wild accusation of liberalism will avail against them." Whatever may be said of these estimable authors, we readily agree that Dr. Bouquillon for one is more orthodox than logical.

(3). On this vague and indefinite coactive power of the state, however, Dr. Bouquillon will establish the right of the state to prescribe a *standard*, or *minimum* of instruction to be imparted to children.

> If the state may coërce parents who neglect the education of their children, so also may it determine a minimum of instruction and make it obligatory. Who admits the former must admit the latter. The consequence seems to us logically necessary and we are surprised that all do not see it. Consider, when are parents called negligent? Evidently, when they do not give their children a minimum of education. If then you grant to the state power over cases of neglect, you at once give it power to define what is the minimum of education, and to exact that minimum by way of prevention and of general precept. A law prescribing a minimum of instruction is nothing else, it seems to us, than the application of a principal of natural law to the given circumstances of this or that country.

To this we would say that to determine the *minimum* and *maximum* of instruction to be received by the child is the business, in the first place, of the parent or the person who, according to the natural law, takes the place of the parent; as it is also the right of the parent to determine the kind, quality and quantity of the child's food and clothing, and the state has no right to interfere as long as there is not flagrant neglect, cruelty, or abuse. As the parent can, on medical or other grounds, make his child abstain to a certain age from certain kinds of food or drink, or certain kinds of amusement, up to a certain age, so he can also make him abstain from learning the three R's up to a certain age, (say 8 or 10 or even 12 years) without getting a license from the state.

But what, if in the existence of such freedom, some would remain

illiterate in a civilized community? This evil, in our opinion, is not sufficiently grave to justify the vexation of the entire population by universal state interference. If illiteracy is a great inconvenience, parents generally will be sufficiently eager to avail themselves of the educational facilities offered in a civilized state. The state has other efficacious means of encouraging and promoting education and exterminating illiteracy without infringing on the personal and domestic rights of its subjects. Such means are, for instance, to offer the best educational facilities, to exclude illiterates from certain civil rights and privileges, &c.

Imagine the state sending a programme of studies to every family in the country, containing reading, writing, arithmetic, geography, history, natural philosophy, civil government, physiology, hygiene, the effects of stimulants and narcotics on the human system, &c., &c., &c. Against a certain day before the close of the fourteenth, or sixteenth, (in the state of New York the twenty-first) year every boy and girl, from the White House down to the lowest hovel in the land, is duly summoned to present himself or herself for examination in said branches before the local school board or the representatives thereof, unless such boy or girl has gone through the course customary in our public schools. And in case the child fails in the ordeal, parent or child, or both, are to be disciplined according to law. Or such a crucial test must be gone through every year from the sixth to the fourteenth, sixteenth or twenty-first year completed. Is it any wonder that sound philosophers and statesmen should condemn such a vexatious system? Is it any wonder that free citizens should shrink from it?

And what if compulsory *school-attendance* is added? In fact, if you once admit the principle of compulsory instruction there is no reason why we should not have compulsory school attendance as well. This is the most efficacious and most convenient means of enforcing compulsory instruction, and if the state has a right to the end, it has a right to the means necessary and effectual to that end. If it has the right to prescribe a standard or plan of instruction, it has also the right to see that this plan is carried out by competent officials of its own training. Is Dr. Bouquillon ready to accept all the consequences implied in compulsory instruction? If so, why not go the whole length of state monopoly? He will find eager followers; but a compromise of this kind will satisfy neither his friends nor his opponents.

To steer safe of these inconveniences, which nothing but a union or agreement between Church and state can remedy, we deny the premises and maintain with Taparelli, von Hammerstein, Rossetti, and also with Cavagnis and Sauvé, upon whose authority Dr. Bouquillon relies most of all, that the secular state has no power to enforce upon the children of Christian parents any form of instruction or education, intellectual, moral or religious, *except in particular cases, to be proved individually, in which the parents are guilty of flagrant neglect or cruelty, or are otherwise incapacitated for the discharge of the duties of parents.*

We have strong reasons and good authorities on our side in this opinion, while we have thus far been unable to discover a single solid argument or a single authority worth considering against us. The reasons of our opponents commonly appeal only to sentiment—to false patriotism, national feeling, &c. We confess ourselves not altogether insensible to such motives; but truth goes before sentiment. We have given our reasons and have considered those of our opponents more at length elsewhere.[1]

The arguments of the editors of the *Civiltà Catolica*,[2] and of Costa-Rossetti (he might have added Taparelli and Hammerstein, who teach the very same, and his friends Cavagnis and Sauvé, who profess to follow the teaching of these authors) do not convince Bouquillon. He ex-

[1] Cf. Respective Rights, pp. 29 sq.

The most learned, complete and convincing arguments against compulsory education, at least in the English language, we take to be the pleas of Judge E. F. Dunne in the Quigley case in the courts of Ohio—First Argument, New York, *Freeman's Journal*, May 30 and June 6, 1891, Second Argument (*Compulsory Education*), Catholic Truth Society, St. Louis, Mo., 1891. The brief shortly to be filed in the Supreme Court of Ohio, in the same case will, it is expected, eclipse all the Judge's previous efforts. Whatever view the court may finally take of the Judge's arguments the unbiassed philosopher and jurist cannot fail to see that, as far as principles are concerned, right is on his side. These pleas are not merely masterpieces of forensic oratory, but specimens of the ablest philosophical and juridical argumentation; which, if we mistake not, will be read and studied long after all the pompous panegyrics of our public school compulsory system of education have been forgotten.

[2] The editors of the *Civiltà* have answered for themselves in an extended Review of Dr. Bouquillon's pamphlet (January 2d, 1892), and will probably again be heard from. They are still true to the teaching of Tarparelli and Liberatore and pronounced against compulsory education, in any shape. This Review has already appeared in English translation in various Catholic papers, and has been published in separate pamphlet by Benziger Brothers, New York, under the title: *Education to whom does it belong.* Review by S. M. Brandi, S.J.

amined their reasons, he says, and found them faulty; but he does not take the trouble of refuting them. Need we say in return, that we have examined Dr. Bouquillon's arguments, and that they do not go far to convince us? His argments from reason, as we have seen, prove too much; prove so much that he himself shrinks from the logical consequences. His arguments from authority, on the other hand, prove nothing, because the authors he cites, as we have shown, are one and all against him.

Let us remark in passing that the fact that the "state can hinder parents from sending their children to labor above the strength of their age, say in the mines" (p. 26–27), is no reason why it may compel them to send their children to school or have them taught reading, writing, figuring and physiology. In the first instance, there is question of the violation of a negative precept of the natural law, while in the second case no part of the natural law can be shown to be violated. While the state may possibly forbid *all that is evil*, as far as it comes within its sphere, it can not command *all that is good.*[1]

Dr. Bouquillon (p. 27) returns again to his staple authorities to clinch his argument. He says:—

At any rate, we are not left without respectable authorities in favor of our opinion. St. Thomas teaches that the legislator may take measures concerning "bonam disciplinam per quam cives informantur ut commune bonum justitæ et pacis conservent." Jerome de Medicis, one of the best commentators of St. Thomas, in the XVI. century, adds to the above sentence, "sicut si princeps condat legem ut adolescentes debeant litteris studere, ut hoc studio cives informentur, ut commune bonum justitæ et pacis conservent." To our forefathers compulsory education was not a bugbear. In our days, Mgr. Sauvé declares that he dares not refuse to the state the authority to make obligatory so much of elementary education as is strictly necessary or useful. Nor does Cardinal Zigliara dare deny that power to the state. Cardinal Manning acknowledges that the state has the power to punish the father who neglects to send his child to school, and this power is incontestably within the competence of the state. At times we have seen missionaries make obligatory on the faithful, not only the elementary religious, but the elementary secular instruction in reading and writing; and yet over such instruction the missionaries have only an indirect authority and control.

To begin with the Doctor's last fact, what "missionaries" can do by ecclesiastical power, the state cannot do by secular power. The question is of *state authority*, but of ecclesiastical jurisdiction. Of Cardinal Zigliara's teaching we have already treated. He grants *for argument's sake only* to the state the power to coërce parents to have

[1] Cf. S. Thom. I. II. q. 96. a. 3; Suarez, de leg. lib. III. c. 12. n. 11.

their children instructed. We have sought in vain for any expression of Cardinal Manning's which would commit him to compulsory education; but we did find in an article in the Nineteenth Century written by the Cardinal in 1883, entitled: *Is Christianity in England worth preserving*, the strongest expressions in condemnation of compulsory education.

First, the Cardinal endorses the following words of Bishop Grace of St. Paul, addressed to the Hon. Zachary Montgomery, approving the latter's efforts for educational reform as based on parental rights.

"If you need any words of mine to encourage you in the course you are pursuing, you have them from my heart. Every day convinces me more and more that the ground you have taken in defence of *the rights of the family against the encroachments of the state* is really the ground upon which the opposition to the state school system should have been based from the beginning. *Natural rights as involved in this question no legitimate government will infringe or allow to be infringed upon due proof. The law of majorities, the vox populi, has no weight against the claims of natural family rights.*"

Then the Cardinal goes on to comment upon the American public school as follows:—"Such is the common school system in the American Republic, over which, as yet, the Platonic and communistic theory that the children of a state belong not to their parents, but to the state has never yet exerted its malignant spell. The American commonwealth has in it too much of English and Puritan blood, its vital relation to our seventeenth century is too vivid and powerful, to endure the theory that the children belong to 'the general public,' and that the state may create them in its own image and likeness. Nevertheless, in its zeal for education, it has admitted the *false principles which legitimately lead to this conclusion.* Education that is only *secular* dooms religion to gradual extinction. Education that is *common* violates conscience. Education that is *secular, common, and compulsory violates the rights both of parents and of children.* Logically on these principles the schools are schools of the state, the children are the children of the state, and their formation is at the will of the state against all rights, parental or divine." [1]

Thus thought and wrote the illustrious Cardinal of Westminster in 1883. If he taught otherwise in his pastoral of 1872, as Dr. Bouquillon

[1] Nineteenth Century, April, 1883, Vol. xiii. p. 621.

assures us on the authority of a certain P. Pradié, he has made honorable amends in these plain and emphatic words. [1]

St. Thomas is evidently here quoted by the Doctor, not for his own sake, but on account of the comment of Jerôme de Medicis, in regard to whose authority we would say: first, that Dr. Bouquillon or Jerôme de Medicis could hardly sustain the thesis that compulsory education appertains to that *bona disciplina* of which the Angelic Doctor here speaks; secondly, that Jerôme de Medicis makes this remark only incidentally by way of illustration, as a point possibly appertaining to good discipline; thirdly, that it is by no means certain (nay, the contrary is very probable) that the commentator would have such law extend to all the youth, but only to certain youths by way of privilege; and therefore Sauvê, from whom the Doctor took this argument, very shrewdly makes such possible law apply only to some youths (à *des* jeunes gens). [2]

Now, finally, as to Sauvé's own testimony, why has the Doctor not given us Sauvé's own words in full? Sauvé says: "I would not venture absolutely to dispute the right of the state, at least in certain circumstances of time and place, to make obligatory that elementary instruction, which is strictly useful or necessary, *on condition that such instruction were, above all, religious and moral.*" [3] And here the Monsignore

[1] Since the above was put in print our attention was drawn to the following words from a pastoral of the lamented Cardinal dated Lent 1872:—

"Every Christian child has a right in himself to a Christian education: every Christian parent is the guardian of that right in his child. And over the Christian parent is the authority of the Church as the guardian of the rights and the guide of the liberty both of the parent and of the child. The education of Christian children in faith and morals—and nothing less than such formation is worthy of the name of education—belongs *directly and by divine right* to the authority which in faith and morals is both the ultimate judge and supreme guide ... These principles are to you as axioms both of the natural and of the Christian law. You need not, therefore, be told that the *Civil power has received no right either by the law of nature or of Christianity, to assume to itself the formation or education of the people. A worse tyranny could not be imagined.* A people educated by a government without faith—and what government pretends to have a faith?—a people formed to the image and likeness of an atheistic Commune or a Voltairean civil power can only grow up to scourge itself with intestine feuds, and to commit suicide as a nation." Can these be the words referred to by Pierre Pradié?

[2] Cf. Sauvé, l. c. p. 307. The passage of St. Thomas referred to is Sum. Theol. 1, 2, quest. 96 (not 95) a. 3.

[3] Je n'oserais contester *entièrement* à l'Etat le droit de rendre obligatoire, du moins

goes on to quote the opinion of von Hammerstein, who puts the same condition.

This is the "be all and the end all" of Dr. Bouquillon's argument in favor of compulsory education. Unless he would walk in a solitary path of his own, he must acknowledge with the authorities whom he "quotes in preference," *that a secular state cannot by law enforce compulsory education in any shape or form on Christian subjects.*

Perhaps Dr. Bouquillon will tell us that he holds the same opinion. We would be agreeably surprised, if he did. But, we say if the Doctor does hold this doctrine with Cavagnis, Sauvé, Taparelli, and others whose authority he professes to follow, why not say so? Why manufacture arms for those who endeavor to force upon us Catholics a system of *secular* (*neutral, mixed*) education which the Catholic Church has always wisely abhorred and condemned?

VI. Conclusion.

The *result* to which the learned Doctor comes, we must confess, is most unsatisfactory. He closes with the words:—

> Education: to whom does it belong, is the question with which we started out. We now make answer. It belongs to the individual, physical or moral, to the family, to the state, to the Church; to none of these solely and exclusively, but to all four combined in harmonious working, for the reason that man is not an isolated but a social being. Precisely in the harmonious combination of these four factors in education is the difficulty of practical application. Practical application is the work of the men whom God has placed at the head of the Church and the state, not ours.

We knew all this before; we knew more. We knew not only that these powers in the ideal state should be *harmoniously combined;* but we knew something about the combination and subordination of these forces. The Doctor has contributed nothing to the solution of the great problem. Nay, he has only made it more complicated for this country at least. He has unsettled in the public mind what was thus far settled, throwing before us an indigested mass of general principles, concessions, compromises, views and assumptions, based on quite different circumstances, and having little or no application to the conditions of Church and state in our Republic. Till now we have been guided in this most important matter by the intelligent zeal of our Bishops, by the national ecclesiastical legislation of three

en certains temps et lieux, l'instruction élémentaire, rigoureusement utile ou nécessaire, *à la condition que cette instruction fût avant tout religieuse ou morale.*

plenary councils, by the decrees and instructions of the Holy See and of the sacred congregations; we had some fixed ecclesiastical discipline in regard to parochial schools; but the layman, at least, who happens to read Dr. Bouquillon's pamphlet, will put it down with the painful impression that we have nothing fixed; and that we are, consequently, free to do as we please; that, before we come to any decided line of action in regard to parochial and public schools we must ransack the pedagogic literature from the Capitularies of Charlemagne to the works of the most recent canonist; and that on the basis of these researches our hierarchy have to build up that harmonious educational system which will give its due share to the individual, the family, the state, and the Church. Is this the outcome of the thought and activity of the first century of our American Hierarchy?

This being the only result of Dr. Bouquillon's pamphlet, we must conclude that it is most inopportune and should never have seen the light; for, as the author rightly remarks (p. 30) "No one is at liberty to teach. . .inopportune truth; for inopportune truth is truth accidentally injurious."

The mischief likely to follow from this publication will be all the greater, owing to the well-deserved reputation of its author for orthodoxy and true ecclesiastical spirit, as well as for solid and extensive learning; owing to the fact that it will be taken at least by outsiders to represent the teaching of the Catholic University of America; and that it purports to have been written at the request, though not at the inspiration, of ecclesiastical authorities (see preface). Now we would be sorry to detract one tittle from the well-earned renown of the learned author, or to say a single word derogatory to that promising institution of which he is a conspicuous light, or to seem in the least disrespectful to any, even the lowest, ecclesiastical superiors.

Thus much, however, we may be allowed to say: first, in regard to the author—that although his opinion may have, and certainly has, the greatest weight in other matters, yet in this matter, differing as he does from Catholic theologians and jurists generally, even from those whom he himself quotes for his views in this pamphlet, it carries with it but little authority. Besides, it is sufficiently well known, at least in learned circles, that Dr. Bouquillon does not in this question represent the teaching, or the opinion, of the Catholic

University. And as to the fact that he has written his pamphlet at the request of ecclesiastical superiors, this adds nothing to its authority. We might truly say as much of this paper; but we would not thereby make any one but ourselves responsible for anything it contains. And, in like manner, Dr. Bouquillon would be the last to throw any responsibility for his opinions on any ecclesiastical superior. The pamphlet is, therefore, the work of an individual, and has just that authority which its author can claim in this precise field of knowledge; no more, and no less.

Moreover, the Doctor has evidently formed his ideas on education in countries and under circumstances very different from ours—in countries where there is at least a semblance of union between Church and state; where there exist different conditions of right; where the state encroaches on the rights of the Church and the family, and the Church makes concessions to the state; where, owing to the malice of men, the Church is glad to have any tolerable *modus vivendi;* while here the Church is perfectly free and independent of the state, and the state takes no cognizance of her rights more than of those of any private corporation. Manifestly those principles of law which govern education in countries where there is union, or agreement, between Church and state can have no application to our circumstances, unless in as far as they are at the same time the expression of the natural law. The natural law alone, and not positive laws and customs as based on agreements and concessions on the part of the Church, must decide the relations between state, family and individual in this country; while the Church as such can claim only the rights of its individual members. The individual has the right to practise his religion as long as it does not clash with public order; but the Church *as such* has no acknowledged right. Principles of positive canon law have, therefore, little application to this country, as far as the relation between Church and state is concerned; and it would be unsafe to make any practical applications based exclusively upon positive Church law.

But the author declines to make *practical applications* (cf. preface, and p. 31). Practical applications from a man of Dr. Bouquillon's authority would, we think, have been in order. Speculative science is for the sake of the practical; and the science in which the Doctor has distinguished himself is an eminently practical one. Practical

instruction is just what was needed and expected from him; but he disappointed the public expectation also in this regard. Practically disposed Americans, however, will draw their own practical conclusions from Dr. Bouquillon's teaching; but these logical consequences, we fear, will not be beneficial to Catholic interests in this country. Statesmen will make their application: if the state has the right *to educate*, and is, therefore, the God-appointed educator of its citizens, let us control education, as is done in other countries: we have no state Church looking on as a jealous partner to thwart our endeavors. Parents will make the application, and say: if the state is the natural educator of our children, let the state have them; its education is the cheapest and, from a worldly standpoint, probably the best; and if the state has the right to educate them, it cannot be wrong to let it do so. And why should not priests, too, make their practical applications, if one of themselves, to whom they look up for enlightenment, tells them that the state has the right *to educate:* Why, then, let it educate, we are well rid of the hardships of building and supporting and conducting our parochical schools; our Bishops have been too quick to impose this superfluous burden on us. May not even some of those who have been set by the Holy Ghost to rule the Church of God also make their practical applications?

A defence of state rights in this country like that before us is, therefore, to our thinking, unwarranted and uncalled for. There is no tendency among Catholics, that we can see, unduly to abridge, or in any way to imperil, state rights. And if there were, the state is able to take care of itself, and will doubtless do so without the aid of any plea on the part of Catholics, or any other religious denomination. Such an unwarrantable plea for the rights of the state can only create the false impression among statesmen and non-Catholics —either that there is an under-current of anarchism and disloyalty among Catholics in this country, or that the over-zealous preachers of state prerogatives are guilty of servility and desirous of gaining popular favor or securing political influence.

The states of this union are, as a rule, not at all eager to meddle in our affairs; they let us mind our own business. Why should we, then, invite their interference in those matters in which no right can be proved on the part of the state? Catholics *qua* Catholics owe nothing to the state except the loyalty of good citizens, while the state owes much

to them. Their schools have no material obligation towards the state; on the contrary, the state has great obligations towards them; they yearly save the state many millions of dollars. Why should the state then, arrogate rights to the control or direction of our schools which it cannot prove, and which do not exist? We take this to be very bad policy on the part of the state. Such it has proved to be in Illinois and Wisconsin. The people called a halt. Such it would doubtless prove itself elsewhere if put to the test of intelligent public opinion.

We cannot believe that the bulk of Americans have come to that pass that they are willing to have their domestic affairs controlled by state power, or that they are disposed to impose upon themselves that intolerable yoke of paternalism which the more intelligent of European nations are so eager to shake off. We can hardly think that such a tendency will prevail in America in the long run and we are of the opinion that any effort to make such a policy popular is, to say the very least, labor ill-spent. We would not, however, be understood as implying that Dr. Bouquillon is an advocate of paternalism; but so much we would say, and we believe that we have shown it to evidence in the preceding pages, that by his recent pamphlet he has been playing vigorously into the hands of paternalists.

Should such a policy of state education gain favor in this country, as we trust it never will, what safeguard would remain for the Church, the family, the individual? If public opinion is worked up to such a pitch that the state legislatures and executives of this Union consider themselves justified in taking the control of domestic affairs, insinuating themselves into the household and the sanctuary, what is to prevent them? If it is once made plausible to the country, by good or bad reasoning, by just or unjust precedent, by authorities however insignificant, provided they be popular, that the state or public authority has the inherent right, *special* and *proper*, to *educate* its citizens in the proper sense of this word, what is to prevent it from forcing all children into state or public schools against the protests of individual, family, and Church? The Church, *as such*, has no acknowledged right in this country, and the family and individual must yield to the prevailing right, or, at least to the prevailing force, of the state. Therefore we say that to vindicate to the state the right of education, particularly since such a right cannot be proved is, to use the very mildest expression, a work of questionable wisdom

—a work which is now and here highly "inopportune" and, consequently, at least, "accidentally injurious."

How strongly do the following words of instruction and warning from our illustrious Cardinal, *qui nil molitur inepte*, contrast with the general tenor of Dr. Bouquillon's pamphlet? "The religious and secular education of our children cannot be *divorced* from each other without inflicting a fatal wound upon the soul. The usual consequence of such a separation is to paralyze the moral faculties and to foment a spirit of indifference in matters of faith. Education is to the soul what food is to the body. The milk, with which the infant is nourished at its mother's breast, feeds not only its head, but permeates at the same time its heart and the other organs of the body. In like manner, the intellectual and moral growth of our children should go hand in hand; otherwise, their education is shallow and fragmentary, and often proves a curse instead of a blessing."

"Piety is not to be put on like a holiday dress, to be worn on state occasions, but it is to be exhibited in our conduct at all times. Our youth must put in practice every day the Commandments of God, as well as the rules of grammar and arithmetic. How can they familiarize themselves with these sacred duties, if they are not daily inculcated?"[1]

Doctor Bouquillon, on the other hand, has not a word to say in favor of religious education, in behalf of our parochial schools, in defence of the legislation of our Councils and the decrees of the Church concerning the little ones of the flock of Christ. He will respectfully beg us to remember that his theme is: *Education: To Whom Does it Belong;* and that he has earnestly at heart to restore to the state, in the estimation of the people at least, that *quotum* in the education of youth, of which, in his opinion, the over-zealous defenders of the rights of the family and the Church, have unjustly deprived it; but we beg reverently to submit that we here speak of the opportuneness of his pamphlet, and that our remarks are in order.

We have followed the Doctor patiently and impartially; we have studied the sources from which he gathered his materials; we have compared his references as far as it could be deemed necessary or relevant; we have carefully weighed his arguments, and have come to the conclusion that far from producing anything that could in any

[1] Our Christian Heritage, p. 493.

way contribute to the solution of the education problem in this or any other country, he has only involved it in new difficulties, at least for this country, by putting before the public a collection of principles, partly false, partly vague and ambiguous, and altogether inapplicable to our circumstances, since they presuppose conditions entirely different from ours. We have found his argumentation to be loose and fallacious; his authorities misconceived, misinterpreted, and misapplied; his method illogical; the details of his procedure inexact and inconsistent. He has not been able to muster a single argument to prove the strict, special and proper right of the state to educate in the accepted sense of this word; with this right the whole theory of state education falls to the ground.

However we would not have the Doctor or anybody else think that we are less friendly disposed to the state than he. True patriotism, it would seem to us, does not consist in throwing ourselves and all our concerns into the all-embracing arms of the state; but in faithfully performing our duties as individual citizens. The best friend of the state, we observe, is he who gives least trouble to the state; and the most troublesome are the wards of the state. We would not have our children become wards of the state. If there is anything calculated to stamp out patriotism from the hearts of citizens, it is undue interference on the part of the state. Our American freedom consists not only in free suffrage, but also in the protection which it offers to personal and domestic rights, so that every one who comes to our shores from European states, even before partaking of the rights of a citizen, feels that the heavy burden of paternalism and bureaucracy has been lifted from his shoulders; and that he breathes more freely. Let us beware, then, of trying to impose upon our fellow-citizens that foreign and un-American yoke which we ourselves would have borne with reluctance. It would be highly unpatriotic, or, at best, mistaken patriotism, to swerve from the time-tested principle, that a man's home is his castle, and to make ourselves and our children wards of the state.

But we Catholics have no choice in this matter. According to the teaching of our Church, and according to the ecclesiastical legislation of our country, we can neither use, nor approve of, a system of education, which is divorced from religion and from the influence of the Church, and which regards only, or chiefly, the domain of pro-

fane knowledge. Any thing, therefore, that is calculated to shake this belief in the minds of the faithful, or to relax the discipline of the Church in the matter of Catholic education, cannot but prove highly detrimental to the Church in this country. We would not insinuate that the work before us was written with this intention; far be it from us; but certain it is that, however sincere the intention may have been, the book itself cannot fail to have this effect on many of its readers. It was to counteract this evil, as far as possible, that we undertook this study, and we hope to have attained our purpose, as far as depended on us. We have found not an item in Dr. Bouquillon's pamphlet that could make us swerve one tittle from the principles we have already set forth on this subject. We have travelled the whole ground anew and have only been confirmed in the convictions which had grown upon us in our first study of the question.

We hold now, as we did then, that the parents are the God-given educators of their children; that the work of education is their personal duty and their inalienable and indefeasible right, which they can neither surrender nor forfeit, except by crime or inability.

We hold that the Church, too, has her God-given educational mission, supplementing and superseding that of parents, as far as faith and morals are concerned, but not confined to the sphere of revelation. No, we maintain that the Church has not only the *indirect* right, duty, and authority to teach the profane sciences in virtue of her supernatural end; but that, like every other teaching corporation, the Church has the *direct* right and duty to teach; nay, that the Church has by immemorial prescription the inviolable *historic right* to cultivate and to teach the profane sciences, unhindered and untrammelled by any earthly power; therefore that the Church has the right and authority not only to teach the Christian doctrine in all schools and to superintend the secular teaching so as to assure herself that it contains nothing in itself or its adjuncts dangerous to faith and morals; but that she has the right to found and direct her own schools for the teaching of the profane as well as of the sacred sciences; while the elementary instruction of her children belongs *exclusively* to her.

We hold that the state *per se* i. e., of its own nature or constitution, has neither the right nor the mission, nor the authority to teach in

the sense of educating, though it may and must indirectly and for its own special purposes exercise certain rights and discharge certain duties in regard to education—e. g., establish and conduct military and naval academies, establish schools where manifestly useful or necessary, and not otherwise provided for; found industrial schools for the children of the poor and abandoned classes, not otherwise cared for; encourage and promote scientific investigation and research, &c. We deny, however, that the purely secular state has the right or authority to enforce compulsory education, whether by compelling attendance at school or by prescribing a certain programme, plan of studies, or minimum of instruction, except in particular cases of utter neglect or manifest abuse of parental authority, likely to expose the child to moral ruin; which neglect or abuse, however, must be proved in each case.

The result of our study of Dr. Bouquillon's problem: (*Education: to whom does it belong?*) is, therefore, a fitting supplement to Father Holaind's reply. Father Holaind's answer was: *The Parent First;* we add—THE STATE LAST.

SUPPLEMENT.

DR. BOUQUILLON'S REJOINDER.

I. Some Features of the Rejoinder.

After having sent the foregoing pages to the press we received Dr. Bouquillon's *Rejoinder to Critics*, which is a document of 42 pages octavo written in defence of 32 pages of the same size, chiefly against the strictures of the Rev. R. I. Holaind, S.J., of whose prompt and able reply mention has been made in the preceding, and against certain comments of the Rev. E. A. Higgins, S.J., in the *Catholic News*; and also against some minor criticisms in the *American Ecclesiastical Review* and other Catholic papers not mentioned. The purport of the *Rejoinder* is briefly expressed in the opening lines.

> My pamphlet on Education has provoked adverse criticism. Critics, notably Rev. R. I. Holaind, S.J., have seen in it what I did not say, and have not seen in it what I did say. I feel called on to offer some explanations that I trust will put the truth in clearer light, end misunderstandings and dissipate prejudices.

As we have not, to our knowledge, seen in the pamphlet what the Doctor did not say, nor, as we trust, failed to see what he did say; as we allowed the Doctor to speak for himself and to say over again the most important passages of his pamphlet, and as we have not attributed any motive or purpose to him but what he himself openly declared, these words cannot subsequently be made refer to us. Besides, our treatment of the Doctor's pamphlet, as he himself will readily admit, is very different from that of any of his other critics though our opinions will be found to coincide with theirs in the main. In fact, our review was all but completed before any noteworthy criticism of the pamphlet, except Father Holaind's, had been published; nor did we deem it necessary after reading the criticisms of others, whether favorable to the Doctor or otherwise, in aught to modify our own views or statements—not even after reading the Doctor's *Rejoinder* itself.

We might, therefore, have dispensed ourselves from the task of reviewing the *Rejoinder;* but, on the one hand, we deemed it due to the Doctor and to the public to notice what he had to say in his own defence, and, on the other hand, we feared that, if we neglected to notice it, some over-zealous friends of his might give out that we too were refuted in advance by his *Rejoinder.* We, on the contrary, are of opinion that, if the Doctor had bided his time, and awaited our review of his pamphlet that he would have altogether abandoned the idea of replying, or would have replied in a very different tone and manner; and thus we might have been relieved of the delicate task of reviewing this review of the reviews of his pamphlet.

The task, however, is not so formidable after all, as it might seem at first sight. If we deduct from those 42 pages all that is personal, (whether it regards the author himself, or Father Holaind, or Father Higgins), all that is irrelevant, all that is impertinent to the subject, all that is but a repetition of the former pamphlet, and all that is directly met by us in the body of our review—but little will remain to be examined.

Personal or *irrelevant* is the greater part of the first three sections of the *Rejoinder*, justifying the Doctor's object and purpose and the authorities and quotations contained in his first pamphlet, as also the first and second of his *general observations* (pp. 1–9). We cannot, for instance, see how the Doctor, who was so chary of his words in some parts of his first pamphlet could waste almost two pages (p. 9–10) in defending himself against the charge of state-worship as implied in saying "state and Church," instead of "Church and state," while much graver accusations are brought against him. This making much of trifles is noticeable also (p. 10) where the Doctor tries to make a point out of Father Holaind's waiving certain abstract questions on the modifications of the natural law, which it would take a volume to explain. Had Father Holaind not had the phantasm of the voluminous work of Suarez so vividly before his mind, had he instead Mons. Sauvé's *Questions*, &c. on his desk, open at p. 280, as Dr. Bouquillon seems to have had when he referred (Pamph. I. p. 9) to the "*distinctions lumineuses*"[1] of Suarez (De Legib. l. ii. c. 13), he would not have

[1] Si ces *distinctions luminenses* de Suarez étaient présentes aux yeux de tous les publicistes, plusieurs erreurs au sujet des droits naturels de l'homme seraient facilement évitées. Car tout droit qui n'est pas *commandé* mais seulement *accordé* par la nature,

summarily dismissed these interesting questions, to "turn to the live issues of the hour" (p. 8). The same may be said of the paragraph (p. 21) in which the Doctor tries to make capital of the kind word which Father Holaind has for those who try to vindicate to the Church the direct divine mission of teaching profane sciences. Such methods of controversy may discredit an opponent in the eyes of the vulgar, but not in the eyes of intelligent readers.[1]

Impertinent to the subject we would call, for instance, that long excursion (pp. 17–19) on the right of association, which has not the slightest bearing on the matter in hand except through the artificial and arbitrary connection established by the Doctor in trying to vindicate to the individual and to associations the right to educate. This whole discussion is exceedingly far fetched. If the Journal that brought the objection referred to (p. 17) is not worth naming the objection is not worth considering; nor is the dreaded axiom that *associations are fictitious beings, mere creations of the law,* likely to gain ground in this land of freedom of association. The whole discussion seems to have been put here to give some show of strength and importance to the Doctor's tottering position. In like manner, the learned excursion on the "natural verities" (pp. 21–23) serve at most for filling out, and do nothing towards clearing away the difficulties that beset the reader's path; nay, such overloading with impertinent matter can only divert the ordinary reader from the main issue—a consummation which seems to be rather in the interest of the learned Doctor.

II. The State Christian and Non-Christian.

Waiving such irrelevant and impertinent discussions we now come to a cardinal point of the Doctor's teaching (pp. 11–14).

A capital objection against me is, that in my treatment of education *I make no distinction between the state Christian and the state non-Christian* (Italics ours). Most

peut être modifié, ou même aliéné par les hommes, parce qu'il dépend de la volouté de celui qui le possède, et aussi de la volouté de l'Etat en ce qui est nécessaire ou utile au bien commun. Question religieuses et sociales, p. 280.

[1] We would have it distinctly understood that we do not undertake to defend Father Holaind or any other of Dr. Bouquillon's critics in these pages. We have no right or commission to defend them; they are all able to defend themselves. We have to deal directly with Dr. Bouquillon's *Rejoinder,* only indirectly with his critics.

assuredly I make none, and no more do I make any between the family Christian and the family non-Christian, the individual Christian and the individual non-Christian. I repeat, I make no such distinction, and this is why: Civil society and its inherent authority are in the natural order; the Church and its inherent authority are in the supernatural order. . . . (p. 11).

Here we have to deal with a lamentable confusion of ideas. This would have been the place for the Doctor to apply some of Suarez' "luminous distinctions." But here they do not serve his purpose. The Doctor's entire argumentation is based on one fallacy. He considers the civil authority (*in se*) *in the abstract*, and predicates of the state *in the concrete* (i. e., of the governing person, physical or moral) what is true only of civil authority considered in itself or in the abstract. *In the abstract* it is most true that civil authority always regards the *temporal*, the *profane* (as the Doctor rightly puts it with Webster), and is always *the same;* but, *in the concrete*, he who wields the civil power may be also invested with spiritual, supernatural power, whether *in virtue of his office* as the pope, who is lawful temporal sovereign, and in virtue of his office is at the same time supreme pontiff; or *by delegation*, as in the case of a temporal sovereign or ruler who, by agreement or usage may perform certain spiritual functions, e. g., nominate or present incumbents for ecclesiastical benefices, and invest them with the power and prerogatives thereto annexed.

This union of the natural and supernatural, of the temporal and eternal we find in every believing Christian. In every believing Christian there is intelligence, or natural knowledge, and there is faith or supernatural knowledge; while in the non-believing non-Christian there is natural intelligence without supernatural faith. So it is also in the state, Christian and non-Christian, taken in the concrete; in the latter there is civil authority simply regarding temporal and profane matters; in the former there is also, or at least there may be, a certain amount of spiritual authority attached, whether delegated, as in secular rulers, or ordinary, as when a bishop is at the same time a ruling sovereign.

Suarez in the very chapter here cited by the Doctor (De Leg. lib. iii. c. 11, n. 10) carefully makes the distinction between the civil power proper to Christian rulers and that which they have by concession of the Church or by the very fact of their being rulers of Christian subjects. Hence it is, he says, that temporal rulers can punish those

vices and crimes that are specifically against the Christian religion as such, e. g., heresy, blasphemy against Christ, the Jewish rite of circumcision, &c. "Some of these acts," he says, "belong to the civil authority, not of themselves, but by concession of the ecclesiastical authority, and, as it were, by a tacit or express invocation of the secular arm."[1]

And he further adds that the civil state has the power to punish such crimes also, in as much as they are contrary to the peace of Christian subjects.[2] The Christian state, therefere, may have a more extensive power from two sources: from the concession of the Church and from the exigence of its Christian subjects. This power is spiritual, accessory to the temporal or purely civil power. But it resides, or at least may reside, in a temporal ruler. Suarez, therefore, while maintaining the essential distinction between civil and ecclesiastical authority, admits that both may reside in a temporal ruler, as natural intelligence and supernatural faith can exist in the same rational subject. We wonder that the Doctor cannot, or will not see, this distinction. This "luminous distinction" of Suarez manifestly does not suit the Doctor's purpose.

The same confusion of the concrete with the abstract goes through this whole discussion on the Christian and non-Christian state (p. 11–14). When the Doctor asserts (p. 11, *b*) that the civil authority retains substantially the same character as under the pagan dispensation, or as it would have *im statu naturæ puræ* this is true only in the abstract. It is only in the abstract that whatever is *sacred* belongs to the spiritual and whatever is *profane* belongs to the civil power. In the concrete both these powers may be, to some extent, vested in the same subject, whether this subject be temporal or spiritual; not as if the two powers were mixed, or confused, or blended into one; no; the spiritual power remains spiritual and the temporal power remains temporal; though the former may be partially vested in a temporal subject, and the latter wholly or partly in a spiritual subject. It is

[1] Respondeo imprimis aliqua ex his non tam per se pertinere ad sæcularem potestatem, quam *ex concessione ecclesiasticæ potestatis,* et quasi per tacitam vel expressam invocationem ejus postulantis auxilium brachii secularis (Ibid).

[2] Deinde dicimus illa vitia et peccata quæ dicuntur mixti fori, eatenus puniri et cohiberi per leges civiles, quatenus supposito hoc statu reipublicæ christianæ illam perturbant, et magna nocumenta illi afferunt etiam quoad suam pacem, et externam felicitatem ac conservationem (Ibid).

only in the abstract, therefore, that state power is "everywhere *substantially the same* in infidel and protestant as well as in Catholic nations." In the abstract it is the same in China as in France; but in the concrete it is not the same in Genghis Khan as in Charlemagne.

The Doctor closes his remarks on the Christian and non-Christian state with these words:

> I do not make nor admit the distinction between state and state my critics demand of me, because (1) it is unfounded, (2) *it implies that the government of the United States is not Christian, an assumption I regard as untrue in its full extent* (Italics ours). Are my critics conscious of the unenviable position to which they are driven by denying that the state has the right to educate?

That the distinction is not *unfounded*, we have sufficiently shown. Nor can we see that it throws any unfavorable light on the government of these states. Americans, to our thinking, do not wish to seem more Christian than they really are, and would only enjoy a laugh at the expense of those whose ill-timed zeal would endeavor to make them seem more Christian than they actually wish to be. We cannot see the connection of the question—whether the government of the United States is Christian or non-Christian—with the subject on hand; unless it is this, that Dr. Bouquillon would like to sound his opponents on this delicate matter. Well, we shall try to give a solution according to the Doctor's own admissions.

a. "That the government of the United States is not Christian" is "an assumption I regard as *untrue in its full extent*" (Italics ours, p. 14, l. 11–12).

b. "As to this country, it may be said truly that it is Christian *in a certain sense*" (Italics Dr. Bouquillon's, p. 13, l. 9–10).

c. "The acceptation by the state of the divine law . . . has two aspects, *negative* and *positive* (Italics ours). The negative is the obligation on the part of the state to make no enactments contrary to spiritual interests. The positive . . . is the active concurrence of the state with the Church in procuring and furthering spiritual interests" (p. 12 foot). Now these distinctions are well taken with Suarez and the Vatican theologians (Schema note 45). A state in the latter sense is *positively* Christian, and in the former sense is *negatively* Christian. The American states do bind themselves not to enact any laws contrary to religion or to spiritual interests, as long as these do not conflict with public order and morality; but they do not

actively concur with the Church in procuring spiritual interests. Therefore according to Dr. Bouquillon the American states are *negatively Christian.*

But does the Doctor not see that our states are *negatively* Jewish, Mohammedan, Theosophian, Ingersollian, Christian-scientist, as well? Their respective governments assume the same negative obligations to all those sects as towards Christianity, so long as their public worship does not clash with public order. In his reference to Webster's eloquent plea for the Christianity of our government the Doctor should have informed the reader that the court, on that occasion, decided against Webster.

The Doctor has, therefore, made a weak point for the Christianity of our government. We think that a more successful plea might be made for the Christian character of our national and state constitutions. The Doctor, therefore, does well to refer the reader to Aug. Carlier's *République Américaine;* else he himself might be driven to that "unenviable position" against which he cautions his opponents.

The United States government, or the American state, therefore, may be Christian or non-Christian, as far as Dr. Bouquillon's argument is concerned. But what shall we say of the American *public school?* There's the rub. The Doctor will hardly assert that the American public school is Christian. We have read a voluminous and elaborate digest of the laws and regulations that govern public schools in some thirty-eight states of this Union,[1] and we have not found that any cognizance was taken of the Christian religion and of Christian morals as part of the programme of studies. There we found under the heading *Morals* and *Manners*, "truthfulness," "kindness to animals," and even "love to God and man," but nothing specifically Christian; we found in some places "opening with prayer and Bible-reading without note or comment;" which, for the rest is no more Christian than it is Jewish; but all this has been since then in most states declared unconstitutional by the courts.[2] The non-Christian character of the schools is no mere theory; the principle is practically acted upon. We could name an American High School—we believe one of the best in the country—, for whose teachers we have the highest esteem, as an illustration of the non-Christian character of the public school.

[1] Cf. Report of the Commissioner of Education, 1870.

[2] Cf. Bardeen School. Law pp. 50 sq.

As we have been credibly informed, in a meeting of the faculty of said High School, it was suggested *bona fide* by a distinguished member that the name of Christ should not be used in the customary prayers, as being offensive to the Jews, who frequented the institution. The suggestion was favorably entertained and, as we have been given to understand, subsequently acted upon. We do not mention this fact as derogatory to the American public school, nor in any way discreditable to the faculty of the High School referred to. If we have any fault to find, it is that in said High School prayer was not abolished altogether. This, we think, would have been more consistent with the present laws and usages regulating our public schools. We would only illustrate the fact that, although our government may in some sense, be called Christian, yet our public schools are decidedly non-Christian; and "all the water of Neptune's great ocean" will not wash them clean of this "damned spot."

Suppose we did grant Dr. Bouquillon that there was no distinction between the Christian and the non-Christian state, between the state *in statu naturæ lapsæ et reparatæ*, and the state *in statu naturæ puræ*, what then? All the worse for Dr. Bouquillon. The Doctor knows as well as we do that moral philosophers treat this question independently of all positive religion; and yet the Doctor knows by this time that the entire school of Catholic philosophers denies the state the *right to educate* in the proper sense of this word. Moreover, the Doctor's "impregnable" argument is taken from the standpoint of pure nature; but we have shown that the "impregnable" argument proves nothing. Whether or not, therefore, the Doctor grants greater power to the Christian than to the non-Christian ruler, his position is untenable. By his present unmistakable attitude in regard to the Christian state the Doctor has only weakened his position.

III. Education and Instruction.

Dr. Bouquillon persists in the *synonymous use of education and instruction* (p. 14, ll. 15–28).

I am blamed for confusing *Teaching* with *Education*, and urging in favor of the right to educate arguments that avail only for the right to teach. The answer is easy and very clear.

The words Teaching, Education, may be used in a strict or in a loose sense. In the strict sense, education is the formation of the heart, the will, the interior dispositions of the soul; it is the imparting of virtuous habits. Teaching in the strict sense is the

formation of the mind, the communication of truth. In a loose sense education and teaching equally mean the complete formation of man in general, or of man in any special avocation, of the Christian, the priest, the soldier, and the like. But it is ordinarily in regard to the special work done in schools that the terms *teaching* and *education* are used; and in reference to this they are commonly employed almost indiscriminately.

We must confess that we have little fault to find with the Doctor for this indiscriminate use of the terms, since the official language (it might more properly be called jargon) of state pedagogics would have it so. In the vocabulary of state school politics we find *education, instruction, teaching; Erziehung, Unterricht; éducation, instruction, enseignement; educazione, istruzione, insegnamento*, &c., &c., used indiscriminately. In a scientific treatise, however, education in its stricter sense should be distinguished from education in its wider sense, education as a complex process from education or instruction as a special function. What we chiefly objected to the Doctor (supra p. 12 sq.) was that he takes education in the vague sense, not merely of instruction, but in the meaning of incidental communication of ideas, and applies what may be said of education in this loose sense to education strictly so-called—applies to education as such what may be affirmed only of a very subordinate function in education. This is **a** fallacy, which the Doctor, consciously or unconsciously, made use of to prove the right of the individual to teach, i. e., to educate.

It is strange that the reverend Doctor cannot even now prevail upon himself to adopt a correct definition of education. Instead of conceiving *education* as the entire complex process of the training, development, formation of all the human faculties—physical, intellectual, moral—the direction of the child or youth on the way that he should go, in relation to his Creator and last end, to his neighbor, and to himself; instead of making teaching, or instruction, a subordinate function or means, he falls into the new error of making education and instruction co-ordinate functions; and that without proof or precedent, that we could discover. We have, we may say without boasting, read considerably in this field of literature, and we do not recollect to have met a single author worthy of notice who takes this view of education. We have quoted Cardinal Gibbons' definition which is certainly the result of careful thought and collation of the best authors. We might cite Herbert Spencer from the agnostic camp, who takes substantially the same view of education. We treated the subject

ourselves in two different publications. We may be allowed to place here our view of the nature of education as briefly laid down in the *Rights of Our Little Ones* (questions, 1, 4, 10).

Q. 1. "What is education?

"Education, which, according to the meaning of the word, signifies a bringing out, is such a harmonious development of the faculties of man by external training as to facilitate for him the attainment of his end in this life and in the life to come.

Q. 4. "Which are the chief functions of education?

"The chief functions of education are four, viz.:

a. The *physical*, or that appertaining to the development and perfection of the body and bodily faculties.

b. "The *mental*, or that appertaining to the development and culture of the mind.

c. "The *moral*, or that appertaining to the formation and discipline of the will and affections.

d. "The *religious*, which, though essentially belonging to the mental and moral development of man, has for its special object to fit man for the attainment of his last end.

"Hence we speak of physical, intellectual, moral and religious education as distinct, though not always different, much less separate functions.

Q. 10. "Can a moral and mental education be imparted without religion?

"A moral and mental education cannot be imparted without religion:

a. "Because morality or virtue, especially Christian virtue, cannot exist without being based on religious truths and motives, fostered by religious practices, and sustained by supernatural aid, which can only be obtained by acts of religion.

b. "Because the mind of man cannot be perfected according to the intent of the Creator while the most momentous truths—the truths of religion—are withheld from it."

For the very reason that education is a complex process, an organic development consisting of various inseparable functions—physical, intellectual, moral and religious—we always maintained that the state *per se* has no right to educate. The intellectual, moral and religious education are inseparable from one another. We cannot,

therefore, leave one to the state, another to the parent, and a third to the Church. "The religious side of education" as the Doctor rightly remarks (p. 15, l. 11) "is not within the province of the state." Therefore neither is the moral side of education; for as the Doctor again truly remarks (p. 23, l. 11–12) "*it is impossible to separate morality from religion*"; and, we would add, it is impossible to separate morality *and* religion from the careful training, formation and instruction of the intellect, much less from *education* taken in its entirety. Hence we conclude that the instruction of childhood and youth is not and cannot be within the competence of the state. The Doctor, therefore, speaks volumes against himself when he says (p. 15).

Having carefully shown that *the religious side of education is not within the province of the state* (Italics ours), I proved that the state has a right to found schools, "to provide education in the letters, sciences, and arts," to inculcate the moral principles of the natural law,—in a word, to provide and to exercise authority over all that part of education which concerns the temporal welfare of human society.

It will be borne in mind that we do not deny the state the right "to found schools, to provide education in letters, sciences and arts" for its own legitimate purposes, and in certain cases which we have stated more than once. The state may "inculcate the moral principles of the natural law" in its own way and within its own sphere by legislation and the administration of justice, but not directly by school instruction or education properly so-called, except in default of those upon whom nature imposes this duty, and to whom it vindicates this right. Whatever construction, therefore, may be put on the Doctor's words—whether instruction or education—it is equally false *that the state has the right special and proper to educate.*

IV. The Right of Individuals and Associations.

The Doctor insists on his argument that *the individual, physical or moral, and, consequently, the state has the right to educate* (p. 15, sq.). We feared that we were doing an injustice to him by supposing (supra p. 15), that he seriously wished to defend this, as an argument. But we now find that we were none too severe in our judgment. He says (p. 15–16):—

I am met with the plea that the argument may be admitted for teaching, but not for educating in the strict sense of the term (F. Holaind, p. 6).—I answer: there is no essential difference between the formation of the mind and that of the heart, if the point under consideration be the right to effect that formation. But let us exchange words and see what kind of argument we get. What is education? The formation of charac-

ter, the inculcation of virtue, the correction of faults and defects. But every man has the right to inculcate virtue on his neighbor, to correct his neighbor's faults. Among the *works of spiritual mercy*, we find not only the *teaching of the ignorant*, but also the *correction of sinners* (Italics ours), and if you should want to know what that implies, I refer you to Valentia, 2–2, disp. 3, quæst. 10. Correction is "qualiscunque sermo quo quis vel monendo, vel reprehendendo, vel hortando, vel rogando, vel quippiam indicando, vel alia hujusmodi ratione nitatur proximum a peccato revocare et ad officium virtutemque traducere?" Is education anything else? Therefore [!] every individual has the right to educate.

Here, in our humble opinion, Father Holaind was much too lenient to the learned Doctor. If we are to understand by instruction or teaching the formation of the mind or any kind of "methodical and continuous" communication of knowledge, as Dr. Bouquillon (pamph. 1, p. 8) defines education with Mons. Sauvé, we deny that any individual may exercise such a function towards any other individual without that individual's consent, or towards any child without the consent of such child's parent, or of the person who takes the place of parent in regard to such child—except in the case in which charity or mercy demands it. The spiritual works of mercy, the Doctor should know, can be exercised only towards the *miserable*, who alone are objects of mercy. But the right of aiding the miserable does not confer the right to teach in the scholastic sense.

This argument [of Father Holaind, quoth the Doctor] reveals a sad confusion, about *right* and the *exercise of a right*. I have the right to practice medicine, but I may not and cannot be a physician except to those who will put themselves under my care. Just so I have the right to teach and to educate; but I can exercise the right only on those who have the goodness to take me as master. *If the client I solicit is sui juris, his consent suffices to give effect to my right:* thus the founder of a religious community gets his right made practical, the right, namely, to give a religious education to those who associate with him, by their consent. *If my would-be client is a child, I must needs get the consent of his parents* (Italics ours). Is my position plain? Must I say in so many words, that when I assert for every individual the right to teach, I do not assert the right to take pupils by the collar and teach them willy nilly? *My right to teach does not imply a right to force myself on others* (Italics ours), but does imply an obligation on the part of others not to hinder my giving education to those who are willing to accept my services as a teacher (p. 16).

There is no confusion here between right and the exercise of a right; for the simple reason that here no *right* exists, as we have shown (supra p. 13) unless a *negative right*, such as I have to dispose of my neighbor's property—i. e., no one has the right to prevent me from justly acquiring it, if my neighbor is ready to part with it. We wonder the Doctor did

not perceive that the concessions here made completely undermines his position. A right which can in all cases be lawfully frustrated is no right; but the right of the individual to teach, as the Doctor now admits, is confined to those who "are willing to accept his services as a teacher"; and, "if his client is a child he must get the consent of his parents." Therefore the parents can justly and efficaciously frustrate the right of all individuals either to teach or to educate their children, as long as these are minors; and the pupil himself, if he is *sui juris* can do the same. Consequently, the individual has no right to educate except what he receives from parents, or pupils. And as the Doctor bases the right of corporations on the rights of individuals these too must receive their rights from parents and pupils. Again, since the right of the state to educate is based by the Doctor on the right of corporations, it follows with the same logical necessity that the state cannot educate without the consent of parents, or of pupils, if these are *sui juris*. Consequently, the state has no inherent right to educate, or to force any system, plan or programme of education, on parents or pupils. But if we add, with Leo XIII., that the right of parents to educate their children is inalienable, and indefeasible, that it can neither be extinguished, nor absorbed by the state,[1] what becomes of the right of the state to educate? Verily, the Doctor has here made easy work for his opponents.

We dismiss the long discussion of the rights of corporations tacked on to this argument (pp. 17–19) as impertinent to the subject.

V. Right and Duty of Parents and Church.

In the following two sections on the *Right, Mission* (*duty*), *and Authority of parents and of the Church* the Doctor does little more than repeat what he said in his first pamphlet, giving greater emphasis to some passages, and trying to show the unfair dealing of his critics.

1. Here, as in his first pamphlet, in treating of the right of parents, the Doctor supplies an invincible argument that the *state has not the right to educate;* but he has not the heart to draw the inevitable conclusion contained in his premises. He admits that "the rights of parents are sacred and must be respected"; that the duty of parents is "paramount"; that parents "can never lose" their authority (p. 19–20); but, instead of concluding: *therefore* the state cannot arrogate

[1] Officio sanctissimo. 22. Dec. 1887: Rerum novarum, May 15, 1891.

to itself the right to educate, he feels justified only in asserting that, "if the state establishes public schools, it is bound to take account of the reasonable wishes of parents; and allow them a legitimate share in the carrying on of such schools." He also expresses his preference for municipal schools "as in this country." We fear the Doctor is but poorly informed on the nature of the public school system of this country; else he would not have implied that the municipal system is prevalent in these states. But what if the majority of the municipality itself is agnostic, or indifferent, or even hostile to religion? Have Christian parents any guarantee for the moral and religious education of their children by such municipality, more than by the state or federal government? To these questions the Doctor has no answer.

2. The Doctor (p. 20–21) offers the following apology for his scant treatment of the right, duty and authority of the Church in his first pamphlet:

> When I came to treat this part, I found that I had either to spread over many pages, if I wished to be complete, or confine myself to the mere statement of general principles and indication of principal proofs. This latter alternative was imposed on me by the very nature of my work.

Does this justify the omissions we pointed out (supra pp. 8, 47, 49, 51, 53, sq.)? May these objections be disposed of by the remark: *Quod abundat non vitiat?* We leave this to the judgment of the reader.

The discussion of the principles of the natural law and of the relation of Church and state to these fundamental moral truths (pp. 22–23) we have characterized as impertinent to the subject, yet we cannot refrain from drawing the attention of the reader to some of those principles which are directly opposed to the Doctor's main thesis. Thus, for instance, (p. 22 *b.*):—

> The precepts of the natural law may be known naturally by the very light of reason, as St. Paul teaches in his epistle to the Romans. But they are known more fully and perfectly by the light of revelation; for *revelation is necessary in order that these precepts should be known by all, easily, certainly, and without any mixture of error* (Italics ours): *ut ab omnibus expedite, firma certitudine et nullo admixto errore cognosci possint.* (Conc. Vat.).

Therefore the precepts of the moral law cannot be known by all with certainty, etc., except through the teaching of the Church, the infallible expounder of revelation. Now, if God embodied those natural truths in His revelation, and instituted an infallible teaching

office to explain them, it is certainly not His will that they should be further taught by a fallible and erring school of ministers, comissioners, or superintendents of education.

In passing let us note the ambiguity of the following proposition (p. 22 *e.*):—

> *The state*, which is bound to sanction the principles of moral law, *is* consequently *bound to inculcate* them on the members of society; the Church has a similar duty, but of a higher order, in regard to the faithful; for *these two authorities have both the mission to procure the moral education of men*, though each one at a different point of view (Italics ours).

That the state is bound to "sanction the principles of the moral law" by rewards and punishments we grant; but that it is bound directly to inculcate these principles, otherwise than by laws and judgments, we deny. That the state has any direct mission to procure the "moral education of men" as we understand it in the question on hand, is false; for as the reverend Doctor "was taught by his regretted master, Cardinal Franzelin, in his treatise *de divina traditione et scriptura* (ed. I., p. 110)" "the supernatural moral order comprehends the natural moral order" (Rejoinder pp. 21–22). Therefore in the supernatural order in which by divine goodness, we exist, it is the business of the Church (and, of course, of parents by commission of the Church) to teach this supernatural order. Hence we must conclude that in the supernatural order the state's "occupation's gone," as far as the teaching of morality is concerned, unless we admit a "morale civique" or "independente," or a merely secular or natural morality—which the Doctor as well as ourselves repudiates. For *merely* natural morality, which abstracts from the supernatural end of man, is according to the words of Leo XIII. (*Humanum genus* cited by the Doctor, footnote p. 23), "*civic*, *free* and *independent*" morality.[1]

Moreover, we draw attention to the following words of Dr. Bouquillon which lead to the same conclusion: "*It is impossible to separate* either politics from morality or *morality from religion*" (p. 23 *f*).

[1] Mundi enim opifex idemque providus gubernator Deus: lex æterna naturalem ordinem conservari jubens, perturbari vetans; *ultimus hominum finis multo excelsior rebus humanis extra hæc mundana hospitia constitutus: hi fontes, hæc principia sunt totius justitiæ et honestatis* . . . . Et sane disciplina morum, quæ Massonum familiæ probatur unice, et qua informari adolescentium ætatem contendunt oportere, ea est quam *civicam* nomniant et *solutam* ac *liberam; scilicet in qua opinio nulla sit religionis inclusa.*

Finally we may be permitted to say that the Doctor might have spared the "final remark" (p. 23, ll. 14–20). His opponents have given some thought to all those bearings of the "natural moral truths" —upon traditionalism and upon the salvation of the heathen.

VI. Dr. Bouquillon's Attitude towards Neutral Schools.

Here we may be allowed a remark which strikes us as in justice due to Dr. Bouquillon particularly after reading his second pamphlet. It has been asserted by some critics of the Doctor's first pamphlet, that that publication was intended as a plea for the American secular public school. There is nothing, we believe, farther from the truth. No word of the Doctor's can be interpreted in favor of *secular*, *neutral* or *mixed* education. In his second pamphlet he emphatically repudiates this construction of his teaching, and it is but fair to give him credit for it. He says (p. 4):—

> Neither was it my purpose to speak *ex professo* and at length of the obligation of parents to entrust their children to worthy masters and support good schools. Such obligation is of the domain of practical morals, and has been so often defined by competent authority that I might be dispensed from passing my opinion on it. And notwithstanding, have I not expressed my conviction on this very point most unmistakably, since more than once I have asserted in the pamphlet (pp. 10, 20) that *parents have not the right to give to their children an education detrimental to faith and morals, that in the presence of a system of education indifferent to religion the Church has the duty of establishing Christian schools* (Italics ours)?

Again (p. 20):—

> I have asserted and proved (pp. 10, 16) that it is the duty of parents to give their children education, not education of an indifferent, vague kind, but a civic and *Catholic education*, that will make the children into good citizens and *good Christians; that this parental duty is strict and paramount* (Italics ours), though by no means a duty of commutative justice,[1] as Father Holaind would hold (p. 10, line 35). Why, then, does he [Father Holaind] quote against me (p. 16), the decree of the Holy See and the American Hierarchy on neutral schools?[2] Where is the word of mine contrary to those decrees?

The same is implied (page 34) where the Doctor admits that "the *neutral school* is condemned on principle." There he also makes the admission that "the non-Christian state is not qualified to exercise over Christians its rights in the matter of education," supposing, of

[1] We should like to see the Doctor's proof against Father Holaind, that the duty of parents to give the necessary education to their children is not one of *commutative justice*.

[2] "The decrees of the Holy See and the American Hierachy" were quoted by Father Holaind, *not against* the Doctor, but, as by ourselves, to supply a grave omission in the Doctor's pamphlet.

course, all the time that the state has the proper right to educate. And again (p. 34–35):—

Let it be understood that I am here speaking of the *establishment of schools* by the state, *not of the use of such schools by the parents* (Italics ours). Be the state reprehensible or not in establishing schools negatively indifferent, more or less dangerous, the duties of Catholic parents remain those indicated in the Third Council of Baltimore, n. 198, and in the *Instruction* given by the Holy See, 24 Nov., 1875.

The Doctor then goes on to quote the *Instruction* of the Holy See to the American hierarchy. We wish to put this on record not only for the sake of Dr. Bouquillon's opponents and in fairness to Dr. Bouquillon himself, but chiefly for the sake of his friends. These have no right to cite him in favor of neutral schools in any shape or form, or for any kind of state education which is not Catholic to the fullest extent. His friends have, therefore, been more cruel to Dr. Bouquillon than have been his adversaries; and they have done him real and deep injustice by invoking his authority in favor of any system, or plan, or compromise, that would in any way interfere with the fully Catholic character of the school.

We cannot, therefore, conceal our astonishment at the fact that, while the Doctor so keenly resents what he considers unfairness on the part of his opponents, he is so patient of this injustice done to him by his friends. We sincerely hope that his next *rejoinder* will be directed not against his opponents, but against those who abuse his authority in their endeavors to secularize our Catholic parochial schools: *ab inimicis meis libera me!*

VII. The Impregnable Argument.

In reasserting the right of the state to educate (p. 24 sq.) the Doctor defends, first, his "impregnable," argument, and, secondly, his authorities, we have treated these two points so fully in the body of our essay that we might well be excused from further noticing them here.

"Father Holaind (p. 15) criticizes the major, the minor [of the Doctor's "impregnable" argument] and finds that the conclusion does not follow from the premises." So do we (supra p. 15 sq.); and we come to the same conclusion; so do numerous other critics; and all find the argument faulty. Major, minor and conclusion, as we have seen, must be considerably modified. The Doctor says he made the

necessary qualifications and printed them in *Italics* in various parts of his pamphlet. Very true; but why did the Doctor not make the necessary qualifications here (pamphlet I. p. 12), where they were needed to prevent the false conclusion: that *the state had the right to teach, i. e., to educate.* And why does the Doctor shift his position now? His position was that the state has the right *special and proper to educate,* i. e., *the right of establishing schools, appointing teachers, prescribing methods and programmes of study, in the same way as it governs and judges, viz.; through delegates fitted for such functions.* He now takes his stand with Prof. Moulart, who has not a single word to justify the assumption, that he attributes to the state the right to educate.

Meanwhile, I maintain what I have said on this point, and I repeat it, making my own the words of Prof. Moulart, of the University of Louvain. "Civil instruction, after religious instruction, is the first means of civilizing a people. The first duty of the public power is to *favor and propagate knowledge.* The state is bound to *promote* scientific, literary, technical or industrial training, to *safeguard* its subjects against fraud and injustice by *providing means* (preceding Italics ours) whereby they can know *persons* and *things,* and know the laws that regulate *relations* between persons, the *enjoyment* and *use* of things and the *exercise* of rights." (p. 26).

Is there a word in this extract from Prof. Moulart to imply that *education strict and proper* by the state is a legitimate means of procuring the common good, or that education is an inherent right of the state? The Professor does insist on "civil instruction" but not necessarily by the state; he does insist on the duty of the state to "favor," "propagate," "promote," "safeguard," "provide means" for the diffusion of useful knowledge; but where is the *right to educate?*

In fact Dr. Bouquillon himself no longer insists, in his conclusion, on the *right of the state to educate;* but only on the right of "giving voluntary aid to teachers" and "establishing schools," if it "thinks necessary the establishment of schools." But he immediately submits that this implies "education" as well as "teaching"; and proves this by the authority of St. Thomas and Suarez (ibid.).

But, insists the Rev. Father, this proves at most that the state can give teaching, but not education. Excuse me, *it proves both* (Italics ours). Morality is not less necessary than knowledge. Does not St. Thomas teach that there is no virtue the acts of which the state may not prescribe, and Suarez, that "the end of civil law is the temporal happiness of the commonwealth, which cannot be obtained without the observance of all the moral virtues; hence, the civil law may prescribe in the domain of all the moral virtues."[1]

[1] I-II q. 96, a. 3. "Nulla est virtus de cujus actibus lex præcipere non possit." *De*

Now, we beg the Rev. Doctor, to excuse us. This argument of his *proves neither* the right of *teaching* nor the right of *educating*. We have already shown from the Doctor's own teaching that the state cannot *teach* morality. St. Thomas and Suarez in the passages cited do not speak of teaching but of law, precept and punishment. They assert that the civil power can legislate and, of course, also judge and punish in the matter of all the moral virtues (e. g., punish drunkenness, theft and public disorder, enforce military service, if necessary, &c.). Both these authors, however, take very good care to add, that the civil power cannot enforce all acts of all virtues, as, for instance, virginity and other acts of perfection that are only of council.[1] Whence the Doctor should have concluded, that the state has no right to educate or to enforce any certain kind of education.

And immediately, after thus confounding teaching with governing, legislating and judging once more, the Doctor rates Father Holaind for noticing such a trifling mistake in his first pamphlet.

To this argument [that is, the "impregnable"] I added a cursory remark of minor importance, that the state necessarily teaches, if not in schools, at least in its laws and juridical verdicts. The Rev. Father answers that legislating and judging are not quite the same thing as holding school. I knew that. In order that no one might impute to me so childish a *naiveté*, I wrote, p. 12, "that the civil power does necessarily teach *in one way or another*" when it legislates and judges. The Rev. Father might very well have passed so secondary an observation, but he is wrong in calling it *metaphorical*. It is not in a metaphorical, but in a very proper sense, that divine law in Scripture is called *Lux*, *Lucerna*, *Lumen*, and that St. Basil says, *Lex doctrix et magistra* (p. 26-27).

Here the Doctor clears himself of one "childish *naiveté*" and falls into another, by maintaining that education as applied to governing and judging is not *metaphorical*, and that the examples alleged by him are not metaphorical but employed in their proper sense. When the Doctor exclaims (p. 42): "Was the *light* [i. e., of his first pamphlet] so dazzling that it hurt the eyes of some [of his opponents]?" Does he understand *light* in its proper, not in a metaphorical, sense? If

Leg., lib. III., c. 12, n. 8. "Finis juris civilis est felicitas vera naturalis politicæ civitatis; hæc autem obtineri non potest sine observantia omnium virtutum moralium; ergo in omnibus potest præcipere jus civile."

[1] Non tamen de omnibus actibus omnium virtutum lex humana præcipit, sed solum de illis qui ordinabiles sunt ad bonum commune.—S. Thom. Ibid.

Dicendum est leges civiles non posse fieri de omnibus actibus omnium et singularum virtutum..... Non enim potest præcipi virginitas, etiamsi optimus actus virtutis sit, et idem est de aliis actibus, qui proprie dicuntur consiliorum. Suarez, Ibid. n. 11.

so, we must furthermore consult, not the divine, but the oculist. (Cf. supra p. 18).

VIII. Facts and Documents.

The historical arguments adduced (pp. 27–29) prove nothing, as we have shown (supra p. 55 sq.), because they suppose a union, or agreement, between Church and state. The same may be said of the appeal to the German Centre party (p. 5–6). We have had a fair opportunity of observing the policy of the German Catholic Centre for the last twenty years, and we have followed events in Germany with some interest. Now, if we rightly understand the tendency of this illustrious Catholic party, it is this: *to secure to the Church that freedom which is guaranteed by the constitution.* But, according to the constitutions of the various German states there is an understanding between Church and state regulated by concordats, or agreements, which grant to the state the right to the control of schools, while they secure to the Church the fullest liberty to superintend the education in her own schools. In Germany each denomination has its own separate schools, established and supported by the government. Compulsory education, like many other paternal provisions of German legislation, is a *fait accompli*, and does not lie within the programme of the Centre party. For the present they are satisfied with freedom of education as guaranteed by the constitution; and, as we hold with von Hammerstein and other Catholic authors, compulsory education, if enforced with the consent of the parents and of the Church, contains nothing objectionable. For the rest, the policy of the Centre party has been strictly in accord with the principles of eminent German Catholic publicists, as represented by von Hammerstein, Stökl, Cathrein, Lehmkuhl and others; who are all the most staunch defenders of parental right against state aggression.

We must protest against the insinuation (p. 27 text and foot-note) that Father Holaind attributes any further virtue to the "oil that shone on Charlemagne's brow" than that it was symbolic of the union of Church and state and of the sacredness of the charge entrusted to kings—not to speak of the general effects of the sacramentals of the Church. All Father Holaind says is that "the brow of Charlemagne is glossy with the sacred oil." But the Doctor has already proved himself a bad exponent of metaphors. The learned

foot-note (p. 27) we must, therefore, regard as altogether superfluous and uncalled for.

The Doctor appeals to the letter of Leo XIII to the Cardinal vicar June 26, 1878. But to no purpose. The Pope here deals with existing facts. If instead of *neutral* schools the municipal government of Rome had established Catholic elementary schools and put them under the direction of the Church, who would deny its right to do so? This, as we often repeated, would not imply the exercise of the right of education, but only the right and duty of aiding and promoting education. But to establish neutral schools for so-called civic education and to control these to the exclusion of the influence of the Church and of the parents interested, implies the right to educate. This is precisely what the Pope condemned in that very letter—the establishment of schools in which religion and Christian morality are separated from secular teaching (v. supra p. 33). Therefore the Pope implicitly denies the right of the municipality of Rome, as then and now constituted, to *educate* the Catholic children of Rome; whereas if said municipality were Christian and, in accord with the Church, founded and conducted Christian schools, the Pope would probably have sanctioned and lauded its efforts, though it was but the creation of a band of robbers.

We must likewise protest against the construction put on the Pope's teaching in the Encyclical *Immortale Dei* (p. 29 ll. 15–22).

In the Encyclical *Immortale Dei*, Leo XIII makes a strong appeal to Catholics to take an active part in the politics of their country, even where the constitution is rationalistic, and does not recognize the Church. He advises them especially not to neglect municipal politics. Now, why? *Please attend: because schools are of the jurisdiction of municipalities* (Italics ours), and Catholics should not neglect this most powerful means of assuring to their offspring a good education.

The passage referred to literally translated is this: "It is also of importance for the public welfare, prudently to devote attention to the administration of municipal affairs and herein to use the greatest care and endeavor that provision be made on the part of the municipality (publice) for the religious and moral instruction of the youth in a manner becoming Christians."[1] Here there is not a word to

[1] "Illud etiam publicæ salutis interest, ad rerum urbanarum administrationem conferre sapienter operam, in eaque studere maxime et efficere, ut adolescentibus ad religionem, ad probos mores informandis ea ratione, qua æquum est Christianis, publice consultum sit."

imply that "*schools are of the jurisdiction of municipalities.*" But Christian men are exhorted (since the municipal governments actually in most places do control the schools) to see that such provisions are made as may save the Christian character of the schools. To this the reader will "please attend."

Finally, the concordat of August 18, 1886, with the Prince of Montenegro, proves what all concordats prove, that the Church may cede some of her rights, in regard to education and similar departments of her jurisdiction, to the temporal power, whether the latter be vested in a Catholic, Protestant, schismatic, or infidel.

IX. Dr. Bouquillon's Authorities Once More.

Having thus endeavored to defend his "impregnable" argument and the historical reasons by which he tried to back it up, the Doctor comes to the defence of his authorities. He says (p. 29–30):—

> Finally, I brought (p. 14) to the support of my thesis the authority of some serious publicists of the day. I selected from Austria and Germany two Jesuits, Costa-Rossetti and Hammerstein; from France, Mgr. Sauvé, who, for his knowledge of the positive science, and for the accuracy of his judgment, is recognized as a man of the first order; from Italy, I chose Cardinal Zigliara, a Dominican. I might have added others; I regret, especially, the omission of the illustrious Bishop of Mayence, Mgr. Ketteler. But these were surely sufficient.

We have put the teaching of these "serious publicists" before our readers at full length, even at the risk of trespassing on their patience and on the kindness of our publishers, giving not only those passages which were manifestly against the Doctor's position, but also those that seem to favor him. Now we have only to refer the reader to those extracts (supra pp. 18–43).

The Doctor regrets the omission of the late Mons. von Ketteler on the list of his authorities. As we have taken the liberty of supplying in these pages much graver omissions of the reverend Doctor we shall also cheerfully make up for this rather pardonable oversight on his part.

First, Monsignor von Ketteler most forcibly emphasizes and uncompromisingly insists upon the inalienable and inviolable rights of parents and of the Church. Secondly, Monsignor von Ketteler strongly insists on the organic union of Church and state, and considers everything that would in any way loosen this union as destructive and dangerous. These rights safeguarded, and this union sup-

posed, Monsignor von Ketteler, in accordance with the positive law of Germany, and in accordance with the opinion of the positive German law school (he cites Stahl, who is refuted by Hammerstein, Cathrein, Rossetti, Th. Meyer, &c.), grants the state the right to enforce compulsory education, or prescribe a minimum of elementary instruction.[1] Under such conditions, we believe that few Catholic writers would object to a reasonable and moderate provision for enforcing a limited amount of instruction.

Such is the doctrine of Ketteler. It practically differs very little from that of Hammerstein and others, although Ketteler bases his opinions on the teaching of a school of jurists which Hammerstein and Catholic writers generally reject.

The practical question for us in America, however, as I have repeated more than once, is not whether the state considered in itself can enforce compulsory education or not; or whether a given state with the consent of parents and of the Church can do so; but whether a *purely secular* state like ours (call it Christian or non-Christian), can impose a system of compulsory education, or enjoin a certain plan, programme, minimum, or standard, of obligatory instruction on the children of Christian parents. We have been unable to find a solution for this problem in the works of Mons. von Ketteler, all excellent though they be. Mons. von Ketteler was an eminently practical as well as learned man. He wrote German for Germans, as Mon. Suavé writes French for Frenchmen; and we should endeavor to write American for Americans.

For the rest, what Bishop Ketteler thought of the existing system of compulsory education in Germany, which has been of late emphatically commended by pronounced admirers of Dr. Bouquillon,[2] may be concluded from the following words: "A system of education such as modern liberalism seeks to establish, as an independent state institution, divorced from family and Church— with *direct compulsion in the elementary schools, and indirect compulsion in the higher schools*, in as much as the attendance of state schools is necessary as a qualification

[1] Cf. Freiheit, Auctoritat und Kirche, 4 ed. Maniz 1862 pp. 182–219.

[2] Cf. *Northwestern Chronicle* January 1, 1892, letter dated Berlin (?). The *Church Progress* of St. Louis positively asserts that said letter was concocted in Baltimore, for the secular press—manifestly in the interest of the cause which Dr. Bouquillon champions. See *Progress* January 16, 1892.

for public offices—*is the most destructive and degrading intellectual and moral thraldom.* . . . The conduct of the emperor [Julian the Apostate] is a gentle persecution compared with that which is planned by modern liberalism against Christianity; for at that time *compulsory education* had not yet been heard of. Julian would only deprive the Christians of higher education; but the state school in the sense of modern liberalism is an intellectual prison, into which the children of Christian parents are cast, to rob them of their Christian faith."[1]

We can, therefore, safely say, after examining every single authority the Doctor has produced that not one of them sustains him in his main thesis *that the state has the right to teach, i. e., to educate.* And yet the Doctor grows wroth with those critics who but insinuate what we have proved to evidence. He says:—

Father Holaind slyly insinuates (p. 4) that these references deserve a relative confidence. Father E. A. Higgins, S.J., is bolder; he plainly tells the readers of the *Catholic News* that he has carefully looked up my references, and that of all the writers quoted by me not one gives to the state the right of education as I have formulated it, that is, the right to establish schools, pay teachers, prescribe programmes; not a single one even holds my opinion to be probable. Evidently some one does not know how to read, or is lying to the public [!!!]. That some one is either Father E. A. Higgins, S.J., or Dr. Bouquillon. As no one is judge in his own cause, I produce the documents and appeal to the public. Let its verdict be Father Higgins' punishment or mine (p. 30).

Father Higgins, who is the chief object of the Doctor's resentment, has promptly been heard from in his own defence. In an open letter to the Doctor printed in the *Catholic News* Jan. 21, 1892, he says:—

"You complain that my criticism was unfair. My dear Doctor, I do not admit that charge. It was not unfair to show some of the weak points of your argument. That was all I did. I did not pretend to do more. I did not misrepresent your argument. An impartial reader would not say so. You object that I will not allow as upholding your thesis a single one of the authorities you so ostentatiously array on your side. You resent that sort of criticism. Well, dear Doctor, it is a question of fact. The best of these publicists, such as Jansen, Hammerstein, Costa-Rossetti, Zigliara and Taparelli, have already been quoted against you, as denying to the state in itself the right to educate. I ventured to say that, so far as I could

[1] L. c. p. 215-216.

discover, not one of your authorities directly supports the thesis that the *state has the right to educate.* I say so still."

"I have a right to insist that you use the word *educate* in the ordinary acceptation of the term. I have a right to insist that you continue to use it in the same meaning wherever it occurs: in the same meaning in your *Rejoinder* as in your first pamphlet. If you are pleased to change its meaning now, and to take the word in a loose sense for '*organizing schools, paying teachers, prescribing programmes,*' which can all be done by delegated authority, why did you not so define yourself in your pamphlet? You spoke there of authority *in se;* of state authority over all schools. You cite authors to prove that the state can provide instruction and schools according to the wishes and needs of the people, as Hammerstein puts it. Who denies that? Does that prove your thesis that the state in itself has primarily and by its own authority *the right to educate?* Are you to have the privilege of playing fast and loose with the most important terms? And if you choose to shift your ground, why should I be guilty of the same confusion? I challenged the assertion that the great publicists you named, sustained you in the thesis that the state in itself, of its own authority, has *the right to educate.* Those I have named above do not maintain that thesis. You have not proved that they do. You have proved a different thing, which was not in question. They admit that the state can aid parents in the work of education by providing instruction and schools and managing the same according to the wishes and needs of the parents. No one denies that. But that was not your thesis."

Dr. Bouquillon, however, completely refutes himself in the succeeding paragraph. While endeavoring to prove to the public that it is Father E. A. Higgins, S.J., who "does not know how to read, or is lying to the public," he manages to establish with perplexing evidence that it is somebody else who "does not know how to read, or is lying to the public." We cite his argument in full, to avoid even the possibility of unfairness, adding our own Italics to his.

I have quoted Costa-Rossetti, Hammerstein, Sauvé, Zighara. Here are the texts. Costa-Rossetti, *Inst. Eth. et juris nat*, th. 175, p. 691, 1st ed.: "Auctoritas civilis quidem *scholas fundare et a se fundatas dirigere potest;* sed per se prohibere nequit ne cives ipsi scholas etiam publicas erigant, ab ipsis erectas ordinent et dirigant, quin tamen absolutam docendi libertatem concedere possit."—Hammerstein, *De Ecclesia et Statu,* 1st ed., ii, 2, p. 98: "Concedimus ipsius (status) esse *scholas fundare, si opus*

sit, ut parentes meliorem nanciscantur opportunitatem ad liberos instruendos;" item iii, 3, p. 146: *Scholæ publicæ* tum ab Ecclesia tum a potestate civili *institui possunt;*" again, iii, p. 182: "Negare non potest, statui jura quædam *circa* liberorum educationem et scholas competere. Ipsius enim est, supplere familiam. Hinc primo parentibus *media offere* potest, ut melius et efficacius educationi provideant. Quod facit *scholas fundando et dotando* secundum parentum necessitates et vota."—Sauvé, *Questions Sociales*, c. 10, p. 269–271: L'Etat a de lui-même *le droit d'enseigner* . . . ce qu'il est licite de communiquer à d'autres. Oui, l'état a *le droit d'ouvrir des écoles*, qui, sans préjudicier aux droits de l'Eglise, à ceux des familles et des individus, peuvent être *necessaires ou utiles* au bien social, dont l'état est juge. . . . *Entendu de la sorte*, [i. e., ouvrir des écoles . . . necessaires ou utiles. . .] le droit d'enseigner peut-il être raisonnablement dénié à l'état? Ne serait-ce pas lui refuser le droit de communiquer à d'autres ce qui est bon et utile, et même d'accomplir ce qui peut être pour lui un devoir? . . . Ma thèse est donc celle-ci: Le pouvoir civil a été investi par Dieu du droit de procurer le bien cummun temporel, et par là même de *favoriser et d'ouvrir au besoin des écoles* qui contribuent à ce bien. . . .La thèse opposée à la nôtre qui refuserait à l'état tout droit d'enseigner [i. e., de favoriser et d'ouvrir au besoin des écoles] ne nous paraît pas probable."—Zigliara, *Phil. Mor.*, lib. ii, c. 1, a. 5, n. 7: "Statui jus simul et officium inesse *procurandi media aptiora ad educationem* tum *intellectualem* tum *moralem*, negat profecto nemo. Cum enim in societatem civilem formandam familiæ conveniant, ut auxilia a communitate habeant, quæ solæ aut nullo modo aut nonnisi imperfecte in promptu habere possunt, necesse est ut de jure et officio socialis auctoritatis sit *illa media aptiora suppeditare.*"—Cavagnis, *Instit. jur. publ. eccl.*, iii, n. 89, p. 59: "Facultatem statui civili *scholas instituendi* nemo unquam denegavit."

Let the reader compare these extracts which have been carefully culled by the Doctor and taken out of their context to support his thesis with the same as we have rendered them in translation, carefully noting the context and supplying those passages of these authors, in which they expressly or implicitly deny the state the right to educate; and then let him judge between Dr. Bouquillon and Father Higgins. For the rest, we have only to read those extracts themselves to perceive that not a single one of the authors cited attributes to the *state the right to educate*. They do vindicate to the state the right to *found schools*, where useful or necessary; they attribute to the state certain rights *in regard to* education,—*to offer suitable means*, or the right to *teach* in the sense of *communicating lawful knowledge*, *opening and favoring schools* (Sauvé). But not a single passage is to be found in all these authors to imply that the state has the *right to educate* in the common acceptation of this term.

And yet Dr. Bouquillon, after reviewing this array of authorities, who are all against him, goes on to vent his wrath on Father Higgins (p. 31).

Is comment needed? Let not Father E. A. Higgins say that those writers mean *teaching*, not *education:* they speak of *schools* and, therefore, of [the means of] education, as well as teaching, and at any rate they use expressly the word *education* [does this imply the right to educate?]. Let not Father Higgins say that those writers allow no probability to my thesis; it is to his they give no value whatsoever! Hammerstein and Costa-Rossetti did not even deign to discuss his opinion [!!]; Sauvé expressly says it is not probable [!!!]; Cavagnis and Zigliara assert that nobody ever taught it [i. e., that the state has not the right to establish schools, and supply suitable means]. Let not Father Higgins hereafter say what he has said. But let me say that Father E. A. Higgins has given to the world an instance of audacious negation in the face of truth [!] such as I have never met with. To break down my thesis he would make me a forger [!!]. I resent it.

This specimen of controversy is not very creditable to the learned professor. This wriggling and shifting and juggling plainly shows the weakness of the Doctor's position, as does also his bad temper.

This is the outcome of that great array of authorities quoted by Dr. Bouquillon for the theory *that the state has the right to educate.* They have vanished into thin air, and not one of them is found to support him in the moment of trial. And these are the very same authorities that formed the stock in trade of the panegyrists of state education in some portions of the so-called Catholic press of this country for the last twelve months and more. These, together with the theologians of the Vatican, are the authorities which were paraded in the New York *Independent* of June 4, 1891, to prove to the American non-Catholic world a *concensus* of Catholic theologians in favor of state education as against the parochial school system enjoined on the Catholics of this country not only by the divine law, but also by the decrees of the Holy See, and by their own national conciliar legislation. We were then solicited to examine and expose this fallacy. We did examine the authorities; but we persistently refused to publish the result of our investigation, until it became an imperative duty to do so. It seems to have been the disposition of a special providence that this entire arsenal should explode, not peacemeal in the hands of retailing newspaper writers, but altogether upon the head of the chief manufacturer.[1]

[1] Strange conjectures have been expressed on this phenomenal literary performance of Dr. Bouquillon. The freest and boldest that we have seen in print is that of the reviewer in the Civiltà Cattolica (Jan. 2, 1892) who ventures to doubt the genuineness of the work, owing to the enormous difference between it and the Doctor's previous publications. "Infine," says the reviewer, "ci sia lecito di espremere un dubbio che molte volte ci è venuto alla mente nel leggere questo opuscolo. È esso *genuina* opera di quello

What, then, shall we say of the learned Doctor, who as he tells us (p. 41), has thus "taken his stand in the serene regions of science?" Shall we judge him in his own words, and say: either he "does not know how to read, or is lying to the public?" No; far be that from us! There is a *mean;* but the Doctor in the heat of his resentment did not see it. Dr. Bouquillon is not "lying to the public;" Dr. Bouquillon "does know how to read;" but Dr. Bouquillon *did not* read the meaning of those authors, but rather read his own views *into them.*

X. A Fresh Onset.

But the vials of the Doctor's wrath are not yet empty. Before we give him the floor against Father Higgins again, however, we shall submit to the reader the cause of his resentment in Father Higgins' own words, which run as follows:

"Let us turn for a moment to the author's argument. Dr. Bouquillon is bound to prove that "the state has the right to educate." And this is how he proves it: 'Every individual,' he says, 'has by nature the right to teach. Now, an association or society has the same rights as an individual. Therefore the state, which is a civil society or association, has the right to educate.'"

"To anyone acquainted with the rules of correct reasoning, this pretended argument must appear like a caricature. It sounds like a bad joke perpetrated upon the dull members of a class in logic. Why, Mr. Editor, even if the premises were true, the conclusion of this argument would not follow. The right *to teach*, even when it is established and acknowledged, does not imply or include the right *to educate*. The two things are entirely different. The learned Doctor

stesso teologo moralista, la di cui *Theologia moralis fundamentalis* lodammo nel nostro primo quaderno del passato Agosto? Si così è, bisogna pur che esclamiamo: "*Quantum mutatus ab illo!*"

Whoever the author or authors be, Dr. Bouquillon has undoubtedly made it his own by putting his name to it, and he is responsible for whatever it contains, and, in our opinion, also for most of the weapons which have been used in the campaign for the secularization of our Catholic schools long before the pamphlet: *Education: to whom does it belong* was given to the public. Let the curious reader carefully compare the letter in the *Independent* referred to with Doctor Bouquillon's pamphlet, and then let him read Mons. Sauvé's *Questions, etc.*, c. 10, from which most of the raw material is borrowed; and let him judge whether or not these productions have been manufactured in the same workshop—whether or not "there is method in this madness." Cf. Bouquillon, Theol. mor. fund. Ed. II. p. 408, footnote 5 and p. 410, footnote 1.

knows that the function of *teaching* or *instructing* is only a small element in the work of *education*, and parents may be justified in employing as *teachers* or *instructors* certain persons, to whom they would not intrust the duty of *educating* their children. This then is the first blot in the argument. The conclusion does not follow from the premises.

"But in the second place, the premises themselves are not true. It is not true that 'every individual has by nature the right to teach.' Nature gives no such right. There are many qualities requisite in the one who claims the right to teach. Some of these qualities are intellectual, some are moral; some pertain to knowledge, others to character, to tact, to virtue and to skill. Now, it is plain that nature does not bestow these on every individual. Doubtless every one has a right to qualify himself, if he can, to become a teacher; but this is quite a different thing from saying that 'every one has by nature the right to teach.' The first premise of Dr. Bouquillon's argument, then, is false.

"The second proposition, 'Every society or association has the same right as the individual' is so transparently untrue as to require no refutation. Individual rights are perfectly distinct from those of the family, the state and every other sort of organization. Individuals, as such, have many rights which societies have not, and in the nature of things cannot have. The usurpation by the state of the individual's rights constitutes tyranny or state despotism. To argue from the rights of the individuals to the rights of the state is to argue in favor of the most unlimited state absolutism. The propositions, therefore, that attribute to the state the rights of the individual, is not only false but pernicious."

"Both premises, then, being false, the argument of Dr. Bouquillon falls to the ground. And what shall we say of the logic which is capable of constructing an argument on two false premises? Yet this is the foundation on which Dr. Bouquillon attempts to build up his thesis, namely, a conclusion that is not contained in the premises and a pair of premises which are themselves untrue. And this seems to be the best he can do to sustain, in behalf of the state, a right which every prominent American jurist has invariably attributed to the parent as among his natural and inalienable rights."

Father Higgins criticizes the Doctor's argument as we do, as numerous other critics do, and points out the fallacy. We do not see that he treats the Doctor discourteously; he does not bid him "go to

school," as the Doctor asserts; he does not imply that he is untruthful or deceitful; he does not say that this is the Doctor's only argument; but he does insinuate that the argument is a fundamental one in the Doctor's theory. The latter, instead of answering his objection, as became a writer who was solely concerned for the truth of his doctrine, indulges in a strain of invective eloquence, which does little honor to him as a scholar and a controversialist. He says (p. 32–33):—

Before entering upon the study of the right of the state to teach, page 11 of my pamphlet, I threw out a previous consideration in these words: "We ask if the state has the special and proper right of teaching human knowledge. We say *special and proper* right, for there can be no question of a vague and general right; it were unreasonable to refuse to the state that which is granted to every legitimate association." Thereupon the Rev. Father E. A. Higgins, S.J., actually says that this previous remark is all the argument I have for the state's right, he puts this pretended argument in form, declares it a caricature and bids me go to school to learn logic.

He has set up a man of straw and knocks him down. Again I appeal to the fair minded reader and beg him to give verdict. I have gone to school many years ago, to the school of Franzelin, Patrizzi, and Ballerini, S.J., to that same school I go as often as I can. But Father Higgins' school! No, I hie me not thither, it is a school of deceit. And now shall I tarry to justify—not my argument, I have done that just now in answering Father Holaind's objections to my syllogism—but a simple preliminary observation made by the way in one line [We beg to remind the reader that Father Higgins' objection is directed not against this simple "observation," but against a theory to the defence of which the Doctor devotes many pages of his first pamphlet and of his *rejoinder*—i. e., that every individual, whether single or corporate, has the right to educate] ? I will merely say that I am not the first who has made this observation, and that it has been advanced in favor of the Church, especially in lands where the Church is not recognized as a perfect society. Father E. A. Higgins, S.J., whose name is attached to no great scientific work that I know, may apply to Mgr. Sauvé, author of first class works, the epithets with which he has honored me, may bid him go back to school! Here I drop the Rev. Father. May the reader excuse me for wasting on him so much of his and my time. I should not have stopped to answer his unfair criticism had it not been signed with a name, the religious affixes of which attached to the criticism credit in the eyes of Catholics.

We shall let Father Higgins answer for himself. He says in the open letter already referred to:—

"You are angry because I summarized a fundamental argument of yours and presented it in such a manner as to show its flimsiness. It looked so easy to prove by a bit of philosophizing and generalizing that the state has the right to educate. Borrowing a sentiment of Mgr. Sauvé's to the effect that *everyone who has the ability* has a natural right to teach those who may choose to listen to him, you changed

it into the general proposition that *everybody* has a natural right to teach. Now an association or society (you went on to say) has the same rights as an individual; and the state which is a moral person can fit itself to impart instruction as well a physical person. Therefore (you concluded) the state has the the *right to educate*, which is your conclusion, not Mgr. Sauvé's. This was substantially your argument. I did not change it. I said it sounded like a caricature of reasoning. Here was a conclusion not contained in the premises. Even granting the premise true, this conclusion would not follow from them. And then, dear Doctor, I went on to show that the premises themselves as you stated them, as you changed them from the careful wording of Mgr. Sauvé into your own general propositions, were not true. Now if you were satisfied that the premises furnished you by Mgr. Sauvé were true, why did not you limit your conclusion to the same terms and say, 'Therefore the state has the right *to teach*'? Why? Because your thesis required you to say 'Therefore the state has the right *to educate;*' and you said it, though in saying it you introduced a fourth term into your syllogism. I ventured to call that manner of argument a caricature. A syllogism with four terms is not generally regarded in the schools of logic as a creditable performance. Does it become respectable in the school of Dr. Bouquillon? You grow angry over it as if I had constructed the false syllogism and palmed it off on you. The argument was not mine, it was yours. You were guilty of it, not I."

"And now, dear Doctor, in your *Rejoinder*, how do you explain away this choice specimen of reasoning? You fall back on the words of Mgr. Suavé, which you now quote in full with the saving clauses that make them essentially different from the propositions in your first pamphlet. But you take very good care to leave out altogether the obnoxious conclusion "Therefore the state has *the right to educate.*" Why do you leave it out in the Rejoinder? Because you see now how absurd it would be. And with this *subterfuge* before our eyes, you talk of *a school of deceit.* My dear Doctor, if there is *a school of deceit* in this matter, whose is it? Mine, which fairly stated your illogical argument in full? Or yours, which slyly omits in the *Rejoinder* the offensive and illegitimate conclusion? If there is *a school of deceit*, whose is it? Yours, which practised the sophistry? Or mine, which simply exposed it? If there is *a school of deceit* I know not where to

look for it, unless it be where there is a constant juggling with the words *teach, instruct, organize schools*, and *educate*, as if the last were perfectly equivalent to the others, whereas it stands for something essentially different. The right to educate implies jurisdiction. It involves authority and power to compel obedience and to impose the obligation of receiving instruction and training. That power belongs primarily by natural law and divine law to the parents. It cannot be taken from the parent except by usurpation and tyranny. To surrender that right or power to the state is the betrayal of the most sacred right of parents."

This is the case as between Dr. Bouquillon and Father Higgins; and it may be said to be the case between Dr. Bouquillon and ourselves, as we have raised the same objections to his argument. We have put both sides before the public. Let the reader judge for himself. Father Higgins needs no defence on our part. He is not unknown to the American reading public. He treated educational and other social problems on the rostrum and in print, long before the name of Dr. Bouquillon was heard of on this side of the Atlantic; and if "his name is not attached to any great scientific work," as the Doctor takes care to remind us, this is no proof that, if he did write a scientific work, it would not be a good one; as the fact that a man has written one or more learned works is no sure guarantee that he may not sometime be guilty of writing a bad book. We could point to a distinguished author, who has written most meritorious works; and that same learned author consented "at the request of ecclesiastical superiors," to write a book on education, which is admitted by the better and more intelligent class of Catholics of this country to be of very questionable merit. And the same learned author has defended this book by a second work entitled a *Rejoinder to Critics*, which added little to his reputation. [1]

XI. Dangerous Tactics.

We shall only deal with one other point which Dr. Bouquillon endeavored to make against his critics. In his first pamphlet (p. 23)

[1] The most singular performance in connection with this controversy, that has come to our notice, is the attempt of the Rev. Thomas O'Gorman, D.D., of the Catholic University, in a letter to the *Michigan Catholic*, January 28, 1892, to reconcile the teaching of Father Higgins with that of Dr. Bouquillon. He might as well try to bridge chaos.

the Doctor, to prove *the authority of the state over education*, made the following argument:—

We affirm that the state has authority over education. This authority is included in that general authority with which the state is invested for promoting the common good, for guaranteeing to each man his rights, for preventing abuses. Education, well-directed or ill-directed, is one of the great means of good or of evil to the social body. It is on the education he receives that the future of the child depends; and the child needs protection all the more that he is weak and at the mercy of others. There is no need that we should insist on this motive, it seems to us self-evident.

This argument we dismissed as another form of the "impregnable" argument, which we said might prove anything, or nothing. Father Holaind also (p. 17) finds that it proves too much. Now, the Doctor has discovered that this identical argument has been used by Pope Leo XIII in his Encyclical on the *Condition of Labor;* and he triumphs in this discovery. Well he might, if it were so. We shall give the Doctor's statement of his discovery in full (Rejoinder, p. 38-39):—

The argument *ab absurdo* is a weapon of little effect at times, of very careful handling, of some danger to the fencer. If Father Holaind has read the Encyclical *Rerum Novarum* since he wrote that hasty pamphlet of his, he must be sorry that he tried to fence with that treacherous weapon. Let us examine the reasoning of Leo XIII in the question of labor. *Major:* "Eis qui imperant videndum ut communitatem ejusque partes tueantur." *Minor:* "Atqui interest salutis cum publicæ tum privatæ. . . .validos adolescere cives, juvandæ tutandæque, si res postulat, civitati idoneos." *Conclusion:* "Quamobrem. . . . si valetudini noceatur opere immodico, nec ad sexum ætatemve accomodato, plane adhibenda, *certos intra fines*, vis et actoritas legum." I have reasoned in the question of education exactly on the same line as the Pope in the question of labor. If the culinary objection of Father Holaind has any force, it hits the Holy Father more directly than it hits me; for good victuals are surely of the highest importance to the health of the growing citizen. But I hasten to assure Father Holaind that he is guilty of no irreverence, because his objection is of no account, and Leo XIII has quietly brushed it aside with three little words, *certos intra fines*, which I take the liberty of italicising in the quotation. He explains the three little words thus: "quos fines eadem, quæ legum poscit opem, causa determinat, videlicet, non plura suscipienda legibus, nec ultra progrediendum quam incommodorum sanatio, vel periculi depulsio requirat." I had made precisly the same observation: we may grant to the state what is reasonable and possible without granting to it what is unreasonable and impossible. At any rate does not the state busy itself within reasonable limits with the material welfare of the citizens? Does it not inspect food, meats, drinks, the sanitary conditions of homes, the justness of weights and measures and a thousand other matters? Why then give out exclamations of holy horror when you are told that this same authority, that does all those things without a protest from you, can protect the intellectual and moral life of the children of the people by imposing a minimum of instruction!

If we examine the Encyclical itself we find that the discovery is for the Doctor not such a happy one after all. First, the Pope carefully warns his readers that the right of the individual and family should not be absorbed by the state; and that both the individual and family should be allowed freedom of action as far as this is possible without prejudice to the common good or to the rights of others.[1] These two conditions are supposed in the Pope's argument. And even then legislation, or coaction, must be restricted to certain limits (*certos intra fines*). If the learned Doctor will take the trouble to examine the Pope's argument once more, he will find that in all the cases he enumerates there is an evident violation of right and positive detriment to the common good implied.[2] But we would ask the Doctor what right is violated or wherein is the common good prejudiced by the fact that parents are allowed to educate their own children, without let or hinderance or interference on the part of public authority, so long as no flagrant breach of duty can be imputed to them. The Doctor says he "made precisely the same observation as the Pope." He made the observations contained in his argument, which we have given in full, and no more. The Doctor, it seems to us, has in this place had recourse to "a weapon of *less* effect, of *more* careful handling, and of *more* danger to the fencer" than Father Holaind's argument *ab absurdo*. If the Doctor has had the misfortune unwittingly to use a fallacious argument, he should endeavor to father the fallacy on the Pope.

The Pope's argument should not be distorted from its proper use and meaning. The Pope teaches exactly the contrary of the Doctor's thesis in the Encyclical *Sapientiæ Christianæ:* "Parents have by nature the strict right (jus suum) to educate their own offspring; and

[1] Non civem, ut diximus, non familiam absorberi a republica rectum est: suam utrique facultatem agendi cum libertate permittere æquum est, quantum incolumi bono communi et sine cuiusquam injuria potest.

[2] Quamobrem, si quando fiat, ut quippiam turbarum impendeat ob secessionem opificum, aut intermissas ex composito operas, ut naturalia familiæ nexa apud proletarios relaxentur: ut religio in opificibus violetur non satis impertiendo commodi ad officia pietatis: si periculum in officinis integritati morum aut ingruat a sexu promiscuo, aliisve perniciosis invitamentis peccandi: aut opificum ordinem herilis ordo iniquis premat oneribus, vel alienis a persona ac dignitate humana conditionibus affligat: si valetudini noceatur opere immodico, nec ad sexum ætatemve accommodato, *his in causis* plane adhibenda, *certos intra fines*, vis et auctoritas legum.

to this right is added the duty of directing the education and instruction of their children to that end for which God has blessed them with issue. *Therefore parents must use every effort and endeavor to ward off all unjust interference in this matter, and by all means effect that the education of their children is under their own control, as is meet in accordance with Christian usage.*" [1]

Here we take leave of Dr. Bouquillon. We have followed him with that attention and interest, which the work of so eminent an author seemed to demand. In so doing we considered fairness a serious duty which we owed to him, to the public, and to ourselves; and we trust that we have succeeded in giving an impartial estimate of the works we have undertaken to review. We were forced to point out not a few grave errors or misconceptions. We have done so frankly, but without ill will. And we sincerely hope that, while we have succeeded in proving to the reader that Dr. Bouquillon's views on education are in themselves unsound and dangerous, and prejudicial to Catholic education in this country, we have detracted nothing from his true merits as an author and a scholar.

NOTE.—Since we sent this *Supplement* to the press various other contributions have been added to the literature on the school question. Among the most remarkable that came to our notice, apart from the criticisms of Father Holaind, Father Higgins and of the *Civiltà Cattolica* already noticed, is an article on *Secular Education* by Rt. Rev. Bishop Becker in the *American Cath. Quarterly*, January 1892, articles in the *American Ecclesiastical Review* by Rt. Rev. Bishop Chatard, by Rt. Rev. Dr. Messmer, Bishop-elect, by Rev. Dr. Laughlin, Chancellor of the Archdiocese of Philadelphia, and by Rev. H. J. Heuser, editor of said *Review*, all bearing on this controversy, and all unanimous in their condemnation of Dr. Bouquillon's teaching. We understand that Judge E. F. Dunne has already filed his third Argument on *Compulsory Education* in the Supreme Court of Ohio,

[1] Natura parentes habent jus suum instituendi, quos procrearint; hoc adjuncto officio, ut cum fine, cujus gratia sobolem Dei beneficio susceperunt, ipsa educatio conveniat et doctrina puerilis. *Igitur parentibus est necessarium eniti et contendere, ut omnem in hoc genere propulsent injuriam; omninoque pervincant, ut sua in potestate sit educare liberos, uti par est more Christiano.*

which together with his previous Arguments, to which we have already referred, will soon be before the public in book form. A new edition of Rt. Rev. Bishop McQuaid's publications on the school question is likewise in requisition, and will, as we understand, soon be forthcoming. In referring to the most recent literature on this momentous question we cannot omit to mention the gallant work done by some of our Catholic editors, particularly by Dr. Condé B. Pallen of the *Church Progress*, St. Louis, and the Rev. Dr Michael Walsh of the *Catholic Herald*, New York, and the Rev. E. J. McCabe of the *Catholic Youth*, Brooklyn. On the other side, we have not thus far met with even a serious attempt at a defence of Dr. Bouquillon's teaching in any reputable Catholic paper or magazine.

THE END.

CORRIGENDA.

p. 26, line 5 from foot (note), for *standpotin* read *standpoint.*
p. 34, line 10, for *denigavit* read *denegavit.*
p. 68, line 3 from foot, for *is* read *is not.*

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